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**HEALTH AND SAFETY CODE**  
**DIVISION 2. Licensing Provisions**  
**CHAPTER 3.2. Residential Care Facilities for the Elderly**  
**ARTICLE 1. General Provisions**

**§ 1569. Citation of chapter**

This chapter shall be known and may be cited as the California Residential Care Facilities for the Elderly Act.

**§ 1569.1. Legislative findings and declarations**

The Legislature hereby finds and declares:

(a) The Legislature has taken steps in recent years to develop a continuum of long-term social and health support services for older persons in the community that provide a range of options for long-term care and residential care facilities for the elderly are central in that continuum.

(b) These efforts require a reevaluation of residential care for the elderly outside the constraints of the Community Care Facilities Act.

(c) The Community Care Facilities Act was enacted in 1973 with the primary purpose of ensuring that residents of state hospitals would have access to safe, alternative community-based housing.

(d) Since that time, due to shortages in affordable housing and a greater demand for residences for the elderly providing some care and supervision, a growing number of elderly persons with health and social care needs now reside in community care facilities that may or may not be designed to meet their needs.

(e) Progress in the field of gerontology has provided new insights and information as to the types of services required to allow older persons to remain as independent as possible while residing in a residential care facility for the elderly.

(f) The fluctuating health and social status of older persons demands a system of residential care that can respond to these needs by making available multilevels of service within the facility, thus reducing the need for residents with fluctuating conditions to move between medical and nonmedical facilities.

(g) Residential care facilities for the elderly which are not primarily medically oriented represent a humane approach to meeting the housing, social and service needs of older persons, and can provide a homelike environment for older persons with a variety of care needs.

(h) It is, therefore, the intent of the Legislature to require that residential care facilities for the elderly be licensed as a separate category within the existing licensing structure of the State Department of Social Services.

**§ 1569.2. Definitions**

As used in this chapter:

(a) "Administrator" means the individual designated by the licensee to act in behalf of the licensee in the overall management of the facility. The licensee, if an individual, and the administrator may be one and the same person.

(b) "Care and supervision" means the facility assumes responsibility for, or provides or promises to provide in the future, ongoing assistance with activities of daily living without which the resident's physical health, mental health, safety or welfare would be endangered. Assistance includes assistance with taking medications, money management, or personal care.

(c) "Department" means the State Department of Social Services.

(d) "Director" means the Director of Social Services.

(e) "Health-related services" mean services which shall be directly provided by an appropriate skilled professional, including a registered nurse, licensed vocational nurse, physical therapist, or occupational therapist.

(f) "Instrumental activities of daily living" means any of the following: housework, meals, laundry, taking of medication, money management, appropriate transportation, correspondence, telephoning, and related tasks.

(g) "License" means a basic permit to operate a residential care facility for the elderly.

(h) "Personal activities of daily living" means any of the following: dressing, feeding, toileting, bathing, grooming, and mobility and associated tasks.

(i) "Personal care" means assistance with personal activities of daily living, to help provide for and maintain physical and psychosocial comfort.

(j) "Protective supervision" means observing and assisting confused residents, including persons with dementia, to safeguard them against injury.

(k) "Residential care facility for the elderly" means a housing arrangement chosen voluntarily by persons 60 years of age or over, or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, or personal care are provided, based upon their varying needs, as determined in order to be admitted and to remain in the facility. Persons under 60 years of age with compatible needs may be allowed to be admitted or retained in a residential care facility for the elderly as specified in Section 1569.316.

This subdivision shall be operative only until the enactment of legislation implementing the three levels of care in residential care facilities for the elderly pursuant to Section 1569.70.

(l) "Residential care facility for the elderly" means a housing arrangement chosen voluntarily by persons 60 years of age or over, or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, personal care, or health-related services are provided, based upon their varying needs, as determined in order to be admitted and to remain in the facility. Persons under 60 years of age with compatible needs may be allowed to be admitted or retained in a residential care facility for the elderly as specified in Section 1569.316.

This subdivision shall become operative upon the enactment of legislation implementing the three levels of care in residential care facilities for the elderly pursuant to Section 1569.70.

(m) "Supportive services" means resources available to the resident in the community which help to maintain their functional ability and meet their needs as identified in the individual resident assessment. Supportive services may include any of the following: medical, dental, and other health care services; transportation; recreational and leisure activities; social services; and counseling services.

### **§ 1569.3. Transfer of existing licenses**

The license of any facility licensed as a residential facility for the elderly under the California Community Care Facilities Act provided for in Chapter 3 (commencing with Section 1500) on January 1, 1986, shall automatically be transferred for the unexpired term of the



license to licensure as a residential care facility for the elderly under this act.

#### **§ 1569.5. Temporary respite care regulations**

The director shall adopt regulations authorizing residential care facilities for the elderly, as defined in Section 1569.2, to fill unused capacity on a short-term, time-limited basis to provide temporary respite care for frail elderly persons, functionally impaired adults, or mentally disordered persons who need 24-hour supervision and who are being cared for by a caretaker or caretakers. The regulations shall address provisions for liability coverage and the level of facility responsibility for routine medical care and medication management, and may require screening of persons to determine the level of care required, a physical history completed by the person's personal physician, and other alternative admission criteria to protect the health and safety of persons applying for respite care. The regulations shall permit these facilities to charge a fee for the services provided, which shall include, but not be limited to, supervision, room, leisure activities, and meals.

No facility shall accept persons in need of care beyond the level of care for which that facility is licensed.

### **ARTICLE 2. Licensing**

#### **§ 1569.10. Licensing of residential facilities for elderly**

No person, firm, partnership, association, or corporation within the state and no state or local public agency shall operate, establish, manage, conduct, or maintain a residential facility for the elderly in this state without a current valid license or current valid special permit therefor, as provided in this chapter.

#### **§ 1569.11. Responsibility for inspection and licensing; Nontransferability of licenses**

The department shall inspect and license residential care facilities for the elderly. A license is not transferable.

#### **§ 1569.12. Consulting services**

The department may provide consulting services upon request to any residential care facility for the elderly to assist in the identification or correction of deficiencies and in the upgrading of the quality of care provided by the facility.

#### **§ 1569.13. Delegation of authority to public agencies; Federal grants-in-aid; Assumption of responsibility by county**

(a) The department may contract for state, county, or other public agencies to assume specified licensing, approval, or consultation responsibilities. In exercising the authority so delegated, these agencies shall conform to the requirements of this chapter and to the rules, regulations, and standards of the department. The department shall reimburse agencies for services performed pursuant to this section, and the payments shall not exceed actual cost.

If any grants-in-aid are made by the federal government for the support of any inspection or consultation service approved by the department, the amount of the federal grant shall first be applied to defer the cost of the service before state reimbursement is made.

(b) The department may contract with any county for the purposes of having the county assume the responsibility within the county for the licensing and regulation of residential care facilities for the elderly serving six or fewer persons. Prior to the department contracting with any county for the licensing and regulation of residential care facilities for the elderly serving six or fewer persons, the department shall develop uniform standards which specify and delineate the responsibilities of contracting counties and the department. The department shall reimburse the county for the services performed, not to exceed the actual cost, out of the funds allocated to the department for the licensing and regulation of those facilities. The county shall conform to the requirements of this chapter and to the rules, regulations, and standards of the department.

#### **§ 1569.14. Sale or exchange of license for commercial purpose**

No license issued pursuant to this chapter shall have any property value for sale or exchange purposes and no person, including any owner, agent, or broker, shall sell or exchange any license for any commercial purpose.

#### **§ 1569.145. Application of chapter**

This chapter shall not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of such church or denomination.

(d) Any house, institution, hotel, congregate housing project for the elderly, or other similar place that is limited to providing one or more of the following: housing, meals, transportation, housekeeping, or recreational and social activities; or that have residents independently accessing supportive services; provided, however, that no resident thereof requires any element of care and supervision or protective supervision as determined by the director. This subdivision shall not include a home or residence that is described in subdivision (f).

(e) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care or supervision.

(f) (1) Any arrangement for the care and supervision of a person or persons by a family member.

(2) Any arrangement for the care and supervision of a person or persons from only one family by a close friend, whose friendship preexisted the contact between the provider and the recipient, and both of the following are met:

(A) The care and supervision is provided in a home or residence chosen by the recipient.

(B) The arrangement is not of a business nature and occurs only as long as the needs of the recipient for care and supervision are adequately met.

(g) Any housing for elderly or disabled persons, or both, that is approved and operated pursuant to Section 202 of Public Law 86-372 (12 U.S.C.A. Sec. 1701q), or Section 811 of Public Law 101-625 (42 U.S.C.A. Sec. 8013), or whose mortgage is insured pursuant to Section 236 of Public Law 90-448 (12 U.S.C.A. Sec. 1715z), or that receives mortgage

assistance pursuant to Section 221d (3) of Public Law 87-70 (12 U.S.C.A. Sec. 17151), where supportive services are made available to residents at their option, as long as the project owner or operator does not contract for or provide the supportive services. The project owner or operator may coordinate, or help residents gain access to, the supportive services, either directly, or through a service coordinator.

(h) Any similar facility determined by the director.

(i) For purposes of this section, "family member" means any spouse, by marriage or otherwise, child or stepchild, by natural birth or by adoption, parent, brother, sister, half-brother, half-sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or any person denoted by the prefix "grand" or "great," or the spouse of any of these persons.

(j) A person shall not be exempted from this chapter's licensure requirements if he or she has been appointed as conservator of the person, estate of the person, or both, if the person is receiving care and supervision from the conservator as regulated by this chapter, unless the conservator is otherwise exempted under other provisions of this section.

#### **§ 1569.147. Application of rent control**

(a) Nothing in this chapter authorizes the imposition of rent regulations or controls for licensed residential care facilities for the elderly.

(b) Licensed residential care facilities for the elderly are not subject to controls on rent imposed by any state or local agency or other local government entity.

#### **§ 1569.149. Fire clearance approval**

A prospective applicant for licensure shall be notified at the time of the initial request for information regarding application for licensure that, prior to obtaining licensure, the facility shall secure and maintain a fire clearance approval from the local fire enforcing agency, as defined in Section 13244, or the State Fire Marshal, whichever has primary fire protection jurisdiction. The prospective applicant shall be notified of the provisions of Section 13235, relating to the fire safety clearance application. The prospective applicant for licensure shall be notified that the fire clearance shall be in accordance with state and local fire safety regulations.

#### **§ 1569.15. License application; information required**

Any person desiring issuance of a license for a residential care facility for the elderly under this chapter shall file with the department, pursuant to regulations, an application on forms furnished by the department, which shall include, but not be limited to:

(a) Evidence satisfactory to the department of the ability of the applicant to comply with this chapter and of rules and regulations adopted under this chapter by the department.

(b) Evidence satisfactory to the department that the applicant is of reputable and responsible character. The evidence shall include, but not be limited to, a criminal record clearance pursuant to Section 1569.17, employment history, and character references. If the applicant is a firm, association, organization, partnership, business trust, corporation, or company, like evidence shall be submitted as to the members or shareholders thereof, and the person in charge of the residential care facility for the elderly which application for issuance of license or special permit is made.

(c) Evidence satisfactory to the department that the applicant has sufficient financial resources to maintain the standards of service required by regulations adopted pursuant to this

chapter.

(d) Disclosure of the applicant's prior or present service as an administrator, general partner, corporate officer or director of, or as a person who has held or holds a beneficial ownership of 10 percent or more in, any residential care facility for the elderly or in any facility licensed pursuant to Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), or Chapter 3 (commencing with Section 1500).

(e) Disclosure of any revocation or other disciplinary action taken, or in the process of being taken, against a license held or previously held by the entities specified in subdivision (c).

(f) Any other information as may be required by the department for the proper administration and enforcement of this chapter.

(g) Failure of the applicant to cooperate with the licensing agency in the completion of the application shall result in the denial of the application. Failure to cooperate means that the information described in this section and in regulations of the department has not been provided, or not provided in the form requested by the licensing agency, or both.

(h) Following the implementation of Article 7 (commencing with Section 1569.70) evidence satisfactory to the department of the applicant's ability to meet regulatory requirements for the level of care the facility intends to provide.

(i) Evidence satisfactory to the department of adequate knowledge of supportive services and other community supports which may be necessary to meet the needs of elderly residents.

(j) A signed statement that the person desiring issuance of a license has read and understood the residential care facility for the elderly statute and regulations.

(k) Designation by the applicant of the individual who shall be the administrator of the facility, including, if the applicant is an individual, whether or not the licensee shall also be the administrator.

(l) Evidence of successfully completing a certified prelicensure education program pursuant to Section 1569.23.

(m) For any facility that promotes or advertises or plans to promote or advertise special care, special programming, or special environments for persons with dementia, disclosure to the department of the special features of the facility in its plan of operation.

#### **§ 1569.150. Action on application by person licensed to operate at another site; Notice of reasons for failure to act on application within 60 days**

(a) The department and the licensing agencies with which it contracts for licensing shall review and make a final determination within 60 days of an applicant's submission of a complete application on all applications for a license to operate a residential care facility for the elderly if the applicant possesses a current valid license to operate a residential care facility for the elderly at another site. Applicants shall note on the application, or in a cover letter to the application, that they possess a current valid license at another site, and the number of that license.

(b) The department shall request a fire safety clearance from the appropriate fire marshal within five days of receipt of an application described in subdivision (a). The applicant shall be responsible for requesting and obtaining the required criminal record clearances.

(c) If the department for any reason is unable to comply with subdivision (a), it shall, within 60 days of receipt of the application described in subdivision (a), grant a provisional license to the applicant to operate for a period not to exceed six months, except as provided in subdivision (d). While the provisional license is in effect, the department shall continue its

investigation and make a final determination on the application before the provisional license expires. The provisional license shall be granted, provided the department knows of no life safety risks, the criminal records clearances, if applicable, are complete, and the fire safety clearance is complete. The director may extend the term of a provisional license for an additional six months at the time of the application, if the director determines that more than six months will be required to achieve full compliance with licensing standards due to circumstances beyond the control of the applicant, and if all other requirements for a license have been met.

(d) If the department does not issue a provisional license pursuant to subdivision (c), the department shall issue a notice to the applicant identifying whether the provisional license has not been issued due to the existence of a life safety risk, lack of a fire safety clearance, lack of a criminal records clearance, failure to complete the application, or any combination of these reasons. If a life safety risk is identified, the risk preventing the issuance of the provisional license shall be clearly explained. If a lack of the fire safety clearance is identified, the notice shall include the dates on which the department requested the clearance and the current status of that request, and the fire marshal's name and telephone number to whom a fire safety clearance request was sent. The department shall identify the names of individuals for whom criminal records clearances are lacking. If failure to complete the application is identified, the notice shall list all of the forms or attachments that are missing or incorrect. This notice shall be sent to the applicant no later than 60 days after the applicant filed the application. If the reasons identified in the notice are corrected, the department shall issue the provisional license within five days after the corrections are made.

(e) The department shall, immediately after January 1, 1993, develop expedited procedures necessary to implement subdivisions (a), (b), (c), and (d).

(f) The department shall, immediately after January 1, 1993, develop an appeal procedure for applicants under this section for both denial of licenses and delay in processing applications.

#### **§ 1569.151. Preliminary approval of applicant intending to sell deposit subscriptions**

Upon receipt of an application to operate a residential care facility for the elderly from an applicant who is also applying or intends to apply for a permit to sell deposit subscriptions on life care contracts pursuant to Chapter 10 (commencing with Section 1770), the department shall review the application for licensure to determine the applicant's ability and intent to meet all statutory and regulatory requirements for a residential care facility for the elderly.

Upon determination that the applicant has provided satisfactory evidence of ability and intent, the department shall issue a preliminary approval for licensure, for purposes of the applicant obtaining a permit to sell deposit subscriptions for life care contracts. Preliminary approval does not guarantee that a license will be issued by the department.

#### **§ 1569.1515. Corporate Membership Licensure Requirements**

(a) A corporation that applies for licensure with the department shall list the facilities that any member of the board of directors, the executive director, or an officer has been licensed to operate, been employed in, or served as a member of the board of directors, the executive director, or an officer.

(b) The department shall not issue a provisional license or license to any corporate applicant that has a member of the board of directors, the executive director, or an officer who is not eligible for licensure pursuant to Sections 1569.16 and 1569.59.

(c) The department may revoke the license of any corporate licensee that has a member of the board of directors, the executive director, or an officer who is not eligible for licensure pursuant to Sections 1569.16 and 1569.59.

(d) Prior to instituting an administrative action pursuant to either subdivision (b) or (c), the department shall notify the applicant or licensee of the person's ineligibility to be a member of the board of directors, an executive director, or an officer of the applicant or licensee, and shall give the applicant or licensee 15 days to remove the person from that position.

#### **§ 1569.152. Reimbursement To Resident For Stolen Or Lost Property; Penalty For Failure To Meet Requirements**

(a) A residential care facility for the elderly, as defined in Section 1569.2, which fails to make reasonable efforts to safeguard resident property shall reimburse a resident for or replace stolen or lost resident property at its then current value. The facility shall be presumed to have made reasonable efforts to safeguard resident property if the facility has shown clear and convincing evidence of its efforts to meet each of the requirements specified in Section 1569.153. The presumption shall be a rebuttable presumption, and the resident or the resident's representative may pursue this matter in any court of competent jurisdiction.

(b) A civil penalty shall be levied if the residential care facility for the elderly has no program in place or if the facility has not shown clear and convincing evidence of its efforts to meet all of the requirements set forth in Section 1569.153. The State Department of Social Services shall issue a deficiency in the event that the manner in which the policies have been implemented is inadequate or the individual facility situation warrants additional theft and loss protections.

(c) The department shall not determine that a facility's program is inadequate based solely on the occasional occurrence of theft or loss in a facility.

#### **§ 1569.153. Theft and loss program**

A theft and loss program shall be implemented by the residential care facilities for the elderly within 90 days after January 1, 1989. The program shall include all of the following:

(a) Establishment and posting of the facility's policy regarding theft and investigative procedures.

(b) Orientation to the policies and procedures for all employees within 90 days of employment.

(c) Documentation of lost and stolen resident property with a value of twenty-five dollars (\$ 25) or more within 72 hours of the discovery of the loss or theft and, upon request, the documented theft and loss record for the past 12 months shall be made available to the State Department of Social Services, law enforcement agencies and to the office of the State Long-Term Care Ombudsman in response to a specific complaint. The documentation shall include, but not be limited to, the following:

(1) A description of the article.

(2) Its estimated value.

(3) The date and time the theft or loss was discovered.

(4) If determinable, the date and time the loss or theft occurred.

(5) The action taken.

(d) A written resident personal property inventory is established upon admission and retained during the resident's stay in the residential care facility for the elderly. Inventories shall be written in ink, witnessed by the facility and the resident or resident's representative, and

dated. A copy of the written inventory shall be provided to the resident or the person acting on the resident's behalf. All additions to an inventory shall be made in ink, and shall be witnessed by the facility and the resident or resident's representative, and dated. Subsequent items brought into or removed from the facility shall be added to or deleted from the personal property inventory by the facility at the written request of the resident, the resident's family, a responsible party, or a person acting on behalf of a resident. The facility shall not be liable for items which have not been requested to be included in the inventory or for items which have been deleted from the inventory. A copy of a current inventory shall be made available upon request to the resident, responsible party, or other authorized representative. The resident, resident's family, or a responsible party may list those items which are not subject to addition or deletion from the inventory, such as personal clothing or laundry, which are subject to frequent removal from the facility.

(e) Inventory and surrender of the resident's personal effects and valuables upon discharge to the resident or authorized representative in exchange for a signed receipt.

(f) Inventory and surrender of personal effects and valuables following the death of a resident to the authorized representative in exchange for a signed receipt. Immediate written notice to the public administrator of the county upon the death of a resident whose heirs are unable or unwilling to claim the property as specified in Chapter 20 (commencing with Section 1140) of Division 3 of the Probate Code.

(g) Documentation, at least semiannually, of the facility's efforts to control theft and loss, including the review of theft and loss documentation and investigative procedures and results of the investigation by the administrator and, when feasible, the resident council.

(h) Establishment of a method of marking, to the extent feasible, personal property items for identification purposes upon admission and, as added to the property inventory list, including engraving of dentures and tagging of other prosthetic devices.

(i) Reports to the local law enforcement agency within 36 hours when the administrator of the facility has reason to believe resident property with a then current value of one hundred dollars (\$ 100) or more has been stolen. Copies of those reports for the preceding 12 months shall be made available to the State Department of Social Services and law enforcement agencies.

(j) Maintenance of a secured area for residents' property which is available for safekeeping of resident property upon the request of the resident or the resident's responsible party. Provide a lock for the resident's bedside drawer or cabinet upon request of and at the expense of the resident, the resident's family, or authorized representative. The facility administrator shall have access to the locked areas upon request.

(k) A copy of this section and Sections 1569.152 and 1569.154 is provided by a facility to all of the residents and their responsible parties, and, available upon request, to all of the facility's prospective residents and their responsible parties.

(l) Notification to all current residents and all new residents, upon admission, of the facility's policies and procedures relating to the facility's theft and loss prevention program.

(m) Only those residential units in which there are no unrelated residents and where the unit can be secured by the resident or residents are exempt from the requirements of this section.

#### **§ 1569.154. Standard of responsibility in admission contract**

No provision of a contract of admission, which includes all documents which a resident or his or her representative is required to sign at the time of, or as a condition of, admission to a residential care facility for the elderly, shall require or imply a lesser standard of responsibility

for the personal property of residents than is required by law.

#### **§ 1569.155. Provision and upkeep of regulations**

Upon initial licensure, residential care facilities for the elderly shall be provided a printed copy of all applicable regulations by the department, without charge. All licensees shall subscribe to the appropriate regulation subscription service and are responsible for keeping current on changes in regulatory requirements.

#### **§ 1569.156. Advance Health Directives**

(a) A residential care facility for the elderly shall do all of the following:

(1) Not condition the provision of care or otherwise discriminate based on whether or not an individual has executed an advance directive, consistent with applicable laws and regulations.

(2) Provide education to staff on issues concerning advance directives.

(3) Provide written information, upon admission, about the right to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment and the right, under state law, to formulate advance directives.

(4) Provide written information about policies of the facility regarding the implementation of the rights described in paragraph(3).

(b) For purposes of this section, "advance directive" means an "advance health care directive," as defined in Section 4605 of the Probate Code, or some other form of instruction recognized under state law specifically addressing the provision of health care.

#### **§ 1569.157. Resident-oriented facility councils**

(a) Every licensed residential care facility for the elderly, at the request of a majority of its residents, shall assist the residents in establishing and maintaining a resident-oriented facility council. The council shall be composed of residents of the facility and may include family members of residents of the facility. The council may, among other things, make recommendations to facility administrators to improve the quality of daily living in the facility and may negotiate to protect residents' rights with facility administrators.

(b) A violation of subdivision (a) shall not be subject to the provisions of Section 1569.40, but shall be subject to any other provision of this chapter.

#### **§ 1569.158. Family councils**

(a) No residential care facility for the elderly may prohibit the formation of a family council, and, when requested by a member of the resident's family or the resident's responsible party, the family council shall be allowed to meet in a common meeting room of the facility during mutually agreed upon hours.

(b) Facility policies on family councils shall in no way limit the right of residents and family members to meet independently with outside persons, including members of nonprofit or government organizations or with facility personnel during nonworking hours.

(c) "Family council" for the purpose of this section means a meeting of family members, friends, responsible parties, or agents as defined in Section 14110.8 of the Welfare and Institutions Code of two or more patients to confer in private without facility staff.

(d) Family councils shall also be provided adequate space on a prominent bulletin board



or other posting area for the display of meeting notices, minutes, and newsletters.

#### **§ 1569.159. Telephone Services for Residential Care Facilities**

The State Department of Social Services shall provide to residential care facilities for the elderly a form, which the residential care facility for the elderly shall attach to each resident admission agreement, notifying the resident that he or she is entitled to obtain services and equipment from the telephone company. The form shall include the following information:

"Any hearing or speech impaired, or otherwise disabled resident of any residential care facility for the elderly is entitled to equipment and service by the telephone company, pursuant to Section 2881 of the Public Utilities Code, to improve the quality of their telecommunications. Any resident who has a declaration from a licensed professional, or a state or federal agency pursuant to Section 2881 of the Public Utilities Code, that he or she is hearing or speech impaired, or otherwise disabled should contact the local telephone company and ask for assistance in obtaining this equipment and service."

This section shall not be construed to require, in any way, the licensee to provide a separate telephone line for any resident.

#### **§ 1569.16. Prior license revocation or denial; effect**

(a) (1) If an application for a license indicates, or the department determines during the application review process, that the applicant previously was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3 (commencing with Section 1500), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years have elapsed from the date of the revocation. All residential care facilities for the elderly are exempt from the health planning requirements contained in Part 2 (commencing with Section 127125) of Division 107.

(2) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant previously was issued a certificate of approval by a foster family agency that was revoked by the department pursuant to subdivision (b) of Section 1534 within the preceding two years, the department shall cease any further review of the application until two years shall have elapsed from the date of the revocation.

(3) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant was excluded from a facility licensed by the department pursuant to Section 1558, 1568.092, 1569.58, or 1596.8897, the department shall cease any further review of the application unless the excluded individual has been reinstated pursuant to Section 11522 of the Government Code by the department.

(b) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall, except as provided in Section 1569.22, cease further review of the application until one year has elapsed from the date of the denial letter. In those circumstances where denials are appealed and upheld at an

administrative hearing, review of the application shall cease for one year from the date of the decision and order being rendered by the department. The cessation of review shall not constitute a denial of the application.

(c) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a certificate of approval with a foster family agency and the department ordered the foster family agency to deny the application pursuant to subdivision (b) of Section 1534, the department shall cease further review of the application as follows:

(1) In cases where the applicant petitioned for a hearing, the department shall cease further review of the application until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall cease further review of the application until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(3) The department may continue to review the application if it has determined that the reasons for the denial of the application were due to circumstances and conditions that either have been corrected or are no longer in existence.

(d) The cessation of review shall not constitute a denial of the application for purposes of Section 1526 or any other law. (Editor's Note: Should be Section 1569.22.)

#### **§ 1569.17. Fingerprints and criminal records of individuals in contact with clients; exemptions; criminal records clearances**

The Legislature recognizes the need to generate timely and accurate positive fingerprint identification of applicants as a condition of issuing licenses, permits, or certificates of approval for persons to operate or provide direct care services in a residential care facility for the elderly. The Legislature supports the use of the fingerprint live-scan technology, as identified in the long-range plan of the Department of Justice for fully automating the processing of fingerprints and other data by the year 1999. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with clients of residential care facilities for the elderly may pose a risk to the clients' health and safety.

(a)(1) Before issuing a license to any person or persons to operate or manage a residential care facility for the elderly, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in Section 290 of the Penal Code, for violating Section 245 or 273.5, subdivision (b) of Section 273a or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated.

(2) The criminal history information shall include the full criminal record, if any, of those persons, and subsequent arrest information pursuant to Section 11105.2 of the Penal Code.

(3) The following shall apply to the criminal record information:

(A) If the State Department of Social Services finds that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (f).

(B) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b) is awaiting trial for a crime other than a minor traffic

violation, the State Department of Social Services may cease processing the application until the conclusion of the trial.

(C) If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(D) If the State Department of Social Services finds after licensure that the licensee, or any other person specified in paragraph (2) of subdivision (b), has been convicted of a crime other than a minor traffic violation, the license may be revoked, unless the director grants an exemption pursuant to subdivision (f).

(E) An applicant and any other person specified in subdivision (b) shall submit a second set of fingerprints to the Department of Justice, for the purpose of searching the records of the Federal Bureau of Investigation, in addition to the search required by subdivision (a). If an applicant meets all other conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal history information for the applicant and persons listed in subdivision (b), the department may issue a license if the applicant and each person described by subdivision (b) has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure, the department determines that the licensee or person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to Section 1569.50. The department may also suspend the license pending an administrative hearing pursuant to Sections 1569.50 and 1569.51.

(b) In addition to the applicant, the provisions of this section shall apply to criminal convictions of the following persons:

(1) (A) Adults responsible for administration or direct supervision of staff.

(B) Any person, other than a client, residing in the facility. Residents of unlicensed independent senior housing facilities that are located in contiguous buildings on the same property as a residential care facility for the elderly shall be exempt from these requirements.

(C) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene. Any nurse assistant or home health aide meeting the requirements of Section 1338.5 or 1736.6, respectively, who is not employed, retained, or contracted by the licensee, and who has been certified or recertified on or after July 1, 1998, shall be deemed to meet the criminal record clearance requirements of this section. A certified nurse assistant and certified home health aide who will be providing client assistance and who falls under this exemption shall provide one copy of his or her current certification, prior to providing care, to the residential care facility for the elderly. The facility shall maintain the copy of the certification on file as long as the care is being provided by the certified nurse assistant or certified home health aide at the facility. Nothing in this paragraph restricts the right of the department to exclude a certified nurse assistant or certified home health aide from a licensed residential care facility for the elderly pursuant to Section 1569.58.

(D) Any staff person, volunteer, or employee who has contact with the clients.

(E) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in a similar capacity.

(F) Additional officers of the governing body of the applicant or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these

regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(2) The following persons are exempt from requirements applicable under paragraph (1):

(A) A spouse, relative, significant other, or close friend of a client shall be exempt if this person is visiting the client or provides direct care and supervision to that client only.

(B) A volunteer to whom all of the following apply:

(i) The volunteer is at the facility during normal waking hours.

(ii) The volunteer is directly supervised by the licensee or a facility employee with a criminal record clearance or exemption.

(iii) The volunteer spends no more than 16 hours per week at the facility.

(iv) The volunteer does not provide clients with assistance in dressing, grooming, bathing, or personal hygiene.

(v) The volunteer is not left alone with clients in care.

(C) A third-party contractor retained by the facility if the contractor is not left alone with clients in care.

(D) A third-party contractor or other business professional retained by a client and at the facility at the request or by permission of that client. These individuals shall not be left alone with other clients.

(E) Licensed or certified medical professionals are exempt from fingerprint and criminal background check requirements imposed by community care licensing. This exemption shall not apply to a person who is a community care facility licensee or an employee of the facility.

(F) Employees of licensed home health agencies and members of licensed hospice interdisciplinary teams who have contact with a resident of a residential care facility at the request of the resident or resident's legal decisionmaker are exempt from fingerprint and criminal background check requirements imposed by community care licensing. This exemption shall not apply to a person who is a community care facility licensee or an employee of the facility.

(G) Clergy and other spiritual caregivers who are performing services in common areas of the residential care facility, or who are advising an individual resident at the request of, or with permission of, the resident, are exempt from fingerprint and criminal background check requirements imposed by community care licensing. This exemption shall not apply to a person who is a community care facility licensee or an employee of the facility.

(H) Any person similar to those described in this subdivision, as defined by the department in regulations.

(I) Nothing in this paragraph shall prevent a licensee from requiring a criminal record clearance of any individual exempt from the requirements of this section, provided that the individual has client contact.

(c) (1) (A) Subsequent to initial licensure, any person required to be fingerprinted pursuant to subdivision (b) shall, as a condition to employment, residence, or presence in a residential facility for the elderly, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit these fingerprints, along with a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation, to the Department of Justice, or to comply with paragraph (1) of subdivision (g) prior to the person's employment, residence, or initial presence in the residential care

facility for the elderly.

(B) These fingerprints shall be on a fingerprint card provided by the State Department of Social Services or sent by electronic transmission in a manner approved by the State Department of Social Services and the Department of Justice and submitted to the Department of Justice by the. A licensee's failure to submit fingerprints to the Department of Justice, or to comply with paragraph (1) of subdivision (g), as required in this section, shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation. The State Department of Social Services may assess civil penalties for continued violations as permitted by Section 1569.49. The licensee shall then submit these fingerprints to the State Department of Social Services for processing. Documentation of the individual's clearance or exemption shall be maintained by the licensee and be available for inspection. When live-scan technology is operational, as defined in Section 1522.04, the Department of Justice shall notify the department, as required by that section, and notify the licensee by mail within 14 days of electronic transmission of the fingerprints to the Department of Justice, if the person has no criminal record. A violation of the regulations adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation. The department may assess civil penalties for continued violations as permitted by Section 1569.49.

(2) Within 14 calendar days of the receipt of the fingerprints, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided for in this subdivision. If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 14 calendar days of receipt of the fingerprints. If new fingerprints are required for processing, the Department of Justice shall, within 14 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible.

(3) Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If the State Department of Social Services determines, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, an offense specified in Section 243.4, 273a, 273d, 273g, or 368 of the Penal Code, or a felony, the State Department of Social Services shall notify the licensee in writing within 15 calendar days of the receipt of the notification from the Department of Justice to act immediately to terminate the person's employment, remove the person from the residential care facility for the elderly, or bar the person from entering the residential care facility for the elderly. The State Department of Social Services may subsequently grant an exemption pursuant to subdivision (f). If the conviction was for another crime, except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the residential care facility for the elderly, or bar the person from entering the residential care facility for the elderly or (2) seek an exemption pursuant to subdivision (f). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered by the department. A licensee's failure to comply with the department's prohibition of

employment, contact with clients, or presence in the facility as required by this paragraph shall be grounds for disciplining the licensee pursuant to Section 1569.50.

(4) The department may issue an exemption on its own motion pursuant to subdivision (f) if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. The department, in consultation with interested parties, shall develop regulations to establish the criteria to grant an exemption pursuant to this paragraph.

(5) Concurrently with notifying the licensee pursuant to paragraph (4), the department shall notify the affected individual of his or her right to seek an exemption pursuant to subdivision (f). The individual may seek an exemption only if the licensee terminates the person's employment or removes the person from the facility after receiving notice from the department pursuant to paragraph (4).

(d) (1) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of the sentence, notwithstanding a subsequent order pursuant to the provisions of Sections 1203.4 and 1203.4a of the Penal Code permitting a person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction. For purposes of this section or any other provision of this chapter, the arrest disposition report certified by the Department of Justice or documents admissible in a criminal action pursuant to Section 969b of the Penal Code shall be prima facie evidence of the conviction, notwithstanding any other provision of law prohibiting the admission of these documents in a civil or administrative action.

(2) For purposes of this section or any other provision of this chapter, the department shall consider criminal convictions from another state or federal court as if the criminal offense was committed in this state.

(e) The State Department of Social Services shall not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident of arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client. The State Department of Social Services is authorized to obtain any arrest or conviction records or reports from any law enforcement agency as necessary to the performance of its duties to inspect, license, and investigate community care facilities and individuals associated with a community care facility.

(f) (1) After review of the record, the director may grant an exemption from disqualification for a license as specified in paragraphs (1) and (4) of subdivision (a), or for employment, residence, or presence in a residential care facility for the elderly as specified in paragraphs (4), (5), and (6) of subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, no exemption shall be granted pursuant to this subdivision

if the conviction was for any of the following offenses:

(A) An offense specified in Section 220, 243.4, or 264.1, subdivision (a) of Section 273a or, prior to January 1, 1994, paragraph (1) of Section 273a, Section 273d, 288, or 289, subdivision (a) of Section 290, or Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(B) A felony offense specified in Section 729 of the Business and Professions Code or Section 206 or 215, subdivision (a) of Section 347, subdivision (b) of Section 417, or subdivision (a) of Section 451 of the Penal Code.

(2) The director shall notify in writing the licensee or the applicant of his or her decision within 60 days of receipt of all information from the applicant and other sources determined necessary by the director for the rendering of a decision pursuant to this subdivision.

(3) The department shall not prohibit a person from being employed or having contact with clients in a facility on the basis of a denied criminal record exemption request or arrest information unless the department complies with the requirements of Section 1569.58.

(g) (1) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal record clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another facility licensed by a state licensing district office. The request shall be submitted in writing to the department, and shall include a copy of the person's driver's license or valid identification card issued by the Department of Motor Vehicles, or a valid photo identification issued by another state or the United States government if the person is not a California resident. Upon request of the licensee, who shall enclose a self-addressed stamped envelope for this purpose, the department shall verify whether the individual has a clearance that can be transferred.

(2) The State Department of Social Services shall hold criminal record clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal record clearances to be transferred under this section.

(h) If a licensee or facility is required by law to deny employment or to terminate employment of any employee based on written notification from the department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1569.58, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

(i) Amendments to the provisions of this section made in the 1998 calendar year shall be implemented commencing 60 days after the effective date of the act amending this section in the 1998 calendar year, except those provisions for the submission of fingerprints for searching the records of the Federal Bureau of Investigation, which shall be implemented commencing on January 1, 1999.

#### **§ 1569.171. criminal record; persons completing administrator certification program**

Prior to issuance to any person of a certificate of completion of the administrator certification program pursuant to Section 1569.616, the department shall secure from an appropriate law enforcement agency a criminal record to determine if the person has been convicted of a crime other than a minor traffic violation. Based upon the criminal record

information received, the department shall take appropriate action as provided for in Section 1569.17.

#### **§ 1569.172. Criminal record information; Department of Justice fee**

The Department of Justice may charge a fee sufficient to cover its cost in providing services in accordance with Section 1569.17 to comply with the 14-day requirement for provision to the department of the criminal record information, as contained in subdivision (c) of Section 1569.17.

#### **§ 1569.175. Response to incidents and complaints**

(a) In addition to any other requirements of this chapter, any residential care facility for the elderly providing residential care for six or fewer persons at which the owner does not reside shall provide a procedure approved by the licensing agency for immediate response to incidents and complaints. This procedure shall include a method of assuring that the owner, licensee, or person designated by the owner or licensee is notified of the incident, that the owner, licensee, or person designated by the owner or licensee has personally investigated the matter, and that the person making the complaint or reporting the incident has received a response of action taken or a reason why no action needs to be taken.

(b) In order to assure the opportunity for complaints to be made directly to the owner, licensee, or person designated by the owner or licensee, and to provide the opportunity for the owner, licensee, or person designated by the owner or licensee to meet residents and learn of problems in the neighborhood, any facility with a nonresident owner shall establish a fixed time on a weekly basis when the owner, licensee, or person designated by the owner or licensee will be present.

(c) Facilities with nonresident owners shall establish procedures to comply with the requirements of this section on or before July 1, 1987.

#### **§ 1569.185. License fee; Use of revenue; Failure to pay fee**

(a) A fee adjusted by facility and capacity shall be charged by the department for the issuance of an original license to operate a residential care facility for the elderly or for processing any application therefor. After initial licensure, the fee shall be charged by the department annually on each anniversary of the effective date of the license or special permit. The amount of the fee is for the purpose of financing a portion of the application and annual processing costs and the activities specified in subdivision (b). The fee shall be assessed as follows:

##### **Fee Schedule**

Capacity	Original Application	Annual
1-6	\$300	\$300
7-15	\$450	\$450
16-49	\$600	\$600
50+	\$750	\$750

No local jurisdiction shall impose any business license, fee, or tax for the privilege of operating a facility licensed under this chapter which serves six or fewer persons.



(b)(1) The revenues collected from licensing fees pursuant to this section when appropriated, shall be utilized by the department, to allow increased assistance and monitoring of facilities with a history of noncompliance with licensing laws and regulations pursuant to this chapter, and other administrative activities in support of the licensing program. The revenues collected shall be used in addition to any other funds appropriated in support of the licensing program.

(2) The department shall not utilize any portion of these revenues sooner than 30 days after notification in writing of the purpose and use, as approved by the Department of Finance, to the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the committee in each house that considers appropriations for each fiscal year. For fiscal year 1992--93 and thereafter, the department shall submit a budget change proposal to justify any positions or any other related support costs on an ongoing basis.

(c) A residential care facility for the elderly may use a bona fide business check to pay the license fee required under this section.

(d) Failure to pay required license fees, including the finding of insufficient funds to cover bona fide business checks submitted for this purpose, shall constitute grounds for denial of a license or special permit or forfeiture of a license or special permit.

#### **§ 1569.19. Renewed period; filing of renewal application; forfeiture by operation of law**

A license shall be forfeited by operation of law prior to its expiration date when one of the following occurs:

(a) The licensee sells or otherwise transfers the facility or facility property, except when change of ownership applies to transferring of stock when the facility is owned by a corporation and when the transfer of stock does not constitute a majority change in ownership. The sale of a facility shall be subject to the requirements of this chapter.

(b) The licensee surrenders the license to the department.

(c) The licensee moves a facility from one location to another. The department shall develop regulations to ensure that the facilities are not charged a full licensing fee and do not have to complete the entire application process when applying for a license for the new location.

(d) The licensee is convicted of an offense specified in Section 220, 243.4, or 264.1, or paragraph (1) of Section 273a, Section 273d, 288, or 289 of the Penal Code, or is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.

(e) The licensee dies. When a licensee dies, the continued operation shall be subject to the requirements of Section 1569.193.

(f) The licensee abandons the facility.

#### **§ 1569.191. Sale of licensed facility where new license will be issued**

(a) Notwithstanding Section 1569.19, in the event of a sale of a licensed facility where the sale will result in a new license being issued, the sale and transfer of property and business shall be subject to both of the following:

(1) The licensee shall provide written notice to the department and to each resident or his or her legal representative of the licensee's intent to sell the facility at least 30 days prior to the transfer of the property or business, or at the time that a bona fide offer is made, whichever period is longer.

(2) The licensee shall, prior to entering into an admission agreement, inform all

residents, or their legal representatives, admitted to the facility after notification to the department, of the licensee's intent to sell the property or business.

(b) Except as provided in subdivision (e), the property and business shall not be transferred until the buyer qualifies for a license or provisional license within the appropriate provisions of this chapter.

(1) The seller shall notify, in writing, a prospective buyer of the necessity to obtain a license, as required by this chapter, if the buyer's intent is to continue operating the facility as a residential care facility for the elderly. The seller shall send a copy of this written notice to the licensing agency.

(2) The prospective buyer shall submit an application for a license, as specified in Section 1569.15, within five days of the acceptance of the offer by the seller.

(c) No sale of the facility shall be permitted until 30 days have elapsed from the date upon which notice has been provided pursuant to paragraphs (1) and (2) of subdivision (a).

(d) The department shall give priority to applications for licensure that are submitted pursuant to this section in order to ensure timely transfer of the property and business. The department shall make a decision within 60 days after a complete application is submitted on whether to issue a license pursuant to Section 1569.15.

(e) If the parties involved in the transfer of the property and business fully comply with this section, then the transfer may be completed and the buyer shall not be considered to be operating an unlicensed facility while the department makes a final determination on the application for licensure.

(f) Facilities that are subject to Chapter 10 (commencing with Section 1770) of Division 2, including Section 1789.4, shall not be subject to paragraph (1) of subdivision (a), and subdivisions (c) and (d).

### **§ 1569.193. Death of licensee; Issuance of provisional license**

(a) When a licensee dies, an adult relative, or other nonrelated adult, who has control of the property may be designated as the responsible party to continue operation of the facility if the following conditions are met:

(1) The licensee has filed a notarized written statement with the department designating the responsible party in the event of death, and the licensee has submitted the following information to the department:

(A) A notarized statement, signed by the designee acknowledging acceptance of designation as responsible party.

(B) A declaration signed by the designee under penalty of perjury regarding any prior criminal convictions.

(2) The designee files an application for licensure pursuant to Section 1569.15 within 20 working days of the date of death, shows evidence satisfactory to the department that he or she has the ability to operate the facility, and provides evidence of the licensee's death.

(b) A designee under this section shall notify the department of the licensee's death by the close of business on the department's next business day following the licensee's death.

(c) (1) If the designee decides not to apply for licensure, he or she shall notify the department of that decision within five working days of the licensee's death. If the designee decides not to apply, the department shall assist the designee in the development and implementation of a relocation plan.

(2) If the designee decides to apply for licensure, the department shall decide within 60 days after the application is submitted whether to issue a provisional license pursuant to

Section 1569.21. A provisional license shall be granted only if the department is satisfied that the conditions specified in subdivision (a) have been met and that the health and safety of the residents of the facility will not be jeopardized.

(d) If the designee complies with this section, he or she shall not be considered to be operating an unlicensed facility while the department decides whether to grant the provisional license.

#### **§ 1569.20. Procedure on filing of application for issuance of initial license**

Upon the filing of the application for issuance of an initial license, the department shall, within five working days of the filing, make a determination regarding the completeness of the application. If the application is complete, the department shall immediately request a fire clearance and notify the applicant to arrange a time for the department to conduct a prelicensure survey. If the application is incomplete, the department shall notify the applicant and request the necessary information. Within 60 days of making a determination that the file is complete, the department shall make a determination whether the application is in compliance with this chapter and the rules and regulations of the department and shall either immediately issue the license or notify the applicant of the deficiencies. The notice shall specify whether the deficiencies constitute denial of the application or whether further corrections for compliance will likely result in approval of the application.

#### **§ 1569.21. Provisional licenses**

The director may issue provisional licenses to operate residential care facilities for the elderly for the facilities which the director determines are in substantial compliance with this chapter and the rules and regulations adopted pursuant thereto; provided, that no life safety risks are involved, as determined by the director. In determining whether any life safety risks are involved, the director shall require completion of all applicable fire clearances and criminal record clearances as otherwise required by the department's rules and regulations. This provisional license shall expire six months from the date of issuance, or at such earlier time as the director may determine, and may not be renewed. However, the director may extend the term of a provisional license for an additional six months at time of application, if it is determined that more than six months will be required to achieve full compliance with licensing standards due to circumstances beyond the control of the applicant; provided, that all other requirements for a license have been met.

#### **§ 1569.22. Procedure on denial of license**

Immediately upon the denial of any application for a license, the department shall notify the applicant in writing. Within 15 days after the department mails the notice, the applicant may present his or her written petition for a hearing to the department. Upon receipt by the department of the petition in proper form, the petition shall be set for hearing. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department has all the powers granted therein.

#### **§ 1569.23. Approved certification program as requirement for licensure**

(a) As a requirement for licensure , the applicant shall demonstrate that he or she has

successfully completed a certification program approved by the department.

(b) The certification program shall be for a minimum of 40 hours of classroom instruction and include a uniform core of knowledge which shall include all of the following:

- (1) Law, regulations, policies, and procedural standards that impact the operations of residential care facilities for the elderly.
- (2) Business operations.
- (3) Management and supervision of staff.
- (4) Psychosocial need of the elderly residents.
- (5) Physical needs for elderly residents.
- (6) Community and support services.
- (7) Use, misuse, and interaction of drugs commonly used by the elderly.
- (8) Resident admission, retention, and assessment procedures.

(c) Successful completion of the certification program shall be demonstrated by passing a written test and submitting a fee of one hundred dollars (\$ 100) to the department for the issuance of a certificate of completion.

(d) The department shall establish by regulation the program content, the testing instrument, process for approving certification programs, and criteria to be used for authorizing individuals or organizations to conduct certification programs. These regulations shall be developed with the participation of provider organizations.

(e) This section shall apply to all applications for licensure unless the applicant provides evidence that he or she has a current license for another residential care facility for the elderly which was initially licensed prior to July 1, 1989, or has successfully completed an approved certification program within the prior five years.

(f) If the applicant is a firm, partnership, association, or corporation, the chief executive officer, or other person serving in a like capacity, or the designated administrator of the facility shall provide evidence of successfully completing an approved certification program.

### **§ 1569.235. Requirement to attend orientation**

As a requirement for licensure, the applicant shall attend an orientation given by the department which outlines the applicable rules and regulations, and the scope and responsibility for operation of a residential care facility for the elderly.

### **§ 1569.24. Inspection of facility after licensing**

Within 90 days of initial licensure, the department shall inspect the facility to evaluate compliance with rules and regulations and to assess the facility's continuing ability to meet regulatory requirements.

The department may take appropriate remedial action as provided for in this chapter.

## **ARTICLE 3. Regulations**

### **§ 1569.30. Power of department to adopt, amend or repeal rules, regulations and standards**

(a) The department shall adopt, amend, or repeal, in accordance with Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, such reasonable rules, regulations, and standards as may be necessary or proper to carry out the purposes and intent of this chapter and to enable the department to exercise the powers

and perform the duties conferred upon it by this chapter, not inconsistent with any statute of this state.

(b) The regulations governing residential facilities for the elderly under the Community Care Facilities Act provided for in Chapter 3 (commencing with Section 1500) shall continue to govern residential care facilities for the elderly under this act until amended or repealed.

#### **§ 1569.31. Standards to be prescribed by regulations**

The regulations for a license shall prescribe standards of safety and sanitation for the physical plant and standards for basic care and supervision, personal care, and services to be provided.

The department's regulations shall allow for the development of new and innovative community programs.

In adopting regulations which implement this chapter, the department shall provide flexibility to allow facilities conducted by and exclusively for adherents of a well-recognized church or religious denomination who rely solely on prayer or spiritual means for healing to operate a licensed residential care facility for the elderly.

#### **§ 1569.312. Services which facilities must provide**

Every facility required to be licensed under this chapter shall provide at least the following basic services:

(a) Care and supervision as defined in Section 1569.2.

(b) Assistance with instrumental activities of daily living in the combinations which meet the needs of residents.

(c) Helping residents gain access to appropriate supportive services, as defined, in the community.

(d) Being aware of the resident's general whereabouts, although the resident may travel independently in the community.

(e) Monitoring the activities of the residents while they are under the supervision of the facility to ensure their general health, safety, and well-being.

(f) Encouraging the residents to maintain and develop their maximum functional ability through participation in planned activities.

#### **§ 1569.313. Notice of visiting policy**

Each residential care facility for the elderly shall state, on its client information form or admission agreement, and on its patient's rights form, the facility's policy concerning family visits and other communication with resident clients and shall promptly post notice of its visiting policy at a location in the facility that is accessible to residents and families.

The facility's policy concerning family visits and communication shall be designed to encourage regular family involvement with the resident client and shall provide ample opportunities for family participation in activities at the facility.

#### **§ 1569.314. Purchase of drugs or equipment from particular pharmacy**

A residential care facility for the elderly shall not require residents to purchase medications, or rent or purchase medical supplies or equipment, from any particular pharmacy or other source.

This section shall not preclude a residential care facility for the elderly from requiring that residents who need assistance with the purchasing, storing, or taking of medications comply with the facility's policies and procedures regarding storage of medications and methods of assisting residents with the taking of medications, if the policies and procedures are reasonably necessary and meet the intent of state or federal regulations.

#### **§ 1569.315. Records of licensed facilities**

Each facility required to be licensed shall keep a current record of all of the following:

- (a) Clients in the facility, including each client's name and ambulatory status.
- (b) The name and telephone number of each client's physician.
- (c) The name, address, and telephone number of any person or agency responsible for the care of a client.

The facility shall respect the privacy and confidentiality of this information.

#### **§ 1569.316. Client Compatibility; Disclosure of Information to Facility**

(a) The referring agency or facility, or its designee, shall provide to the administrator all information in its possession concerning any history of dangerous propensity of the client prior to the placement in the residential care facility for the elderly. However, no confidential client information shall be released pursuant to this section without the consent of the client or his or her authorized representative.

(b) In determining a person's compatibility, the licensee shall consider criteria that includes, but is not limited to, both of the following:

- (1) The extent to which the person's personal and health care needs can be adequately met in the residential care facility for the elderly.
- (2) The existence of a past history of violence or mental illness that would create a risk for the person or other residents of that facility.

#### **§ 1569.32. Authority to conduct inspections**

Any duly authorized officer, employee, or agent of the department may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, this chapter.

#### **§ 1569.33. Periodic inspection and evaluation; notification of deficiencies; compliance; reports**

(a) Every licensed residential care facility for the elderly shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the director. Evaluations shall be conducted at least once per year and as often as necessary to ensure the quality of care being provided.

(b) The department shall notify the residential care facility for the elderly in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility.

(c) Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the department, and all inspection reports, consultation reports, lists of deficiencies,

and plans of correction shall be open to public inspection in the county in which the facility is located.

(d) On and after July 1, 2001, as a part of the department's annual evaluation process, the department shall review the plan of operation, training logs, and marketing materials of any residential care facility for the elderly that advertises or promotes special care, special programming, or a special environment for persons with dementia to monitor compliance with Sections 1569.626 and 1569.627.

#### **§ 1569.335. Transmission of complaints to ombudsman**

The department shall notify affected placement agencies and the Office of the State Long-Term Care Ombudsman, as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code, whenever the department substantiates that a violation has occurred which poses a serious threat to the health and safety of any resident when the violation results in the assessment of any penalty or causes an accusation to be filed for the revocation of a license. If the violation is appealed by the facility within 10 days, the department shall only notify placement agencies of the violation when the appeal has been exhausted. If the appeal process has not been completed within 60 days, the placement agency shall be notified with a notation which indicates that the case is still under appeal. The notice to each placement agency shall be updated monthly for the following 24-month period and shall include the name and location of the facility, the amount of the fine, the nature of the violation, the corrective action taken, the status of the revocation, and the resolution of the complaint.

#### **§ 1569.34. Contracts for inspection and consultation services; Advisory team**

The director shall have the authority to contract for personal services as required in order to perform inspections of, or consultation with, residential care facilities for the elderly.

The department shall establish by December 1, 1986, within the department an interdisciplinary team of professionals to advise the department on implementation of this chapter and to be available in crisis situations to assist local licensing evaluators on the needs of elderly residents in facilities.

This team shall include at least a geriatric nurse practitioner or a public health nurse with geriatric experience and a social worker with related experience.

#### **§ 1569.345. Provision of inspection reports to ombudsman**

Upon request, the department shall provide the Office of the State Long-Term Care Ombudsman and any approved organizations of the office with copies of inspection reports for residential care facilities for the elderly.

#### **§ 1569.35. Request for inspection; Complaint procedure**

(a) Any person may request an inspection of any residential care facility for the elderly in accordance with this chapter by transmitting to the department notice of an alleged violation of applicable requirements prescribed by statutes or regulations of this state, including, but not limited to, a denial of access of any person authorized to enter the facility pursuant to Section 9722 of the Welfare and Institutions Code. A complaint may be made either orally or in writing.

(b) The substance of the complaint shall be provided to the licensee no earlier than at the time of the inspection. Unless the complainant specifically requests otherwise, neither the

substance of the complaint provided the licensee nor any copy of the complaint or any record published, released, or otherwise made available to the licensee shall disclose the name of any person mentioned in the complaint except the name of any duly authorized officer, employee, or agent of the department conducting the investigation or inspection pursuant to this chapter.

(c) Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a residential care facility for the elderly, the department shall make a preliminary review and, unless the department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection within 10 days after receiving the complaint except where the visit would adversely affect the licensing investigation or the investigation of other agencies, including, but not limited to, law enforcement agencies. In either event, the complainant shall be promptly informed of the department's proposed course of action.

(d) Upon receipt of a complaint alleging denial of a statutory right of access to a residential facility for the elderly, the department shall review the complaint. The complainant shall be notified promptly of the department's proposed course of action.

#### **§ 1569.355. Automated license information system**

The director shall establish an automated license information system on licensees and former licensees of licensed residential care facilities for the elderly. The system shall maintain a record of any information that may be pertinent, as determined by the director, for licensure under this chapter. This information may include, but is not limited to, the licensees' addresses, telephone numbers, violations of any laws related to the care of clients in a residential care facility for the elderly, licenses, revocation of any licenses and, to the extent permitted by federal law, social security numbers.

#### **§ 1569.36. Transmission of Notices to Ombudsman Prior to Expiration of License**

(a) Not less than 30 days prior to the expiration date of any residential care facility for the elderly license, the department shall transmit a copy to the state ombudsman in the Department of Aging as well as the local ombudsman, if one exists, of all notices sent to the facility by the department during the term of the current license as a result of a substantiated complaint regarding a violation of any of the provisions of this chapter relating to resident abuse and neglect, food, sanitation, incidental medical care, and residential supervision. During that one-year period the copy of the notices transmitted and the proof of the transmittal shall be open for public inspection.

(b) The department shall provide the names and addresses of the state ombudsman in the Department of Aging and, where applicable, the local ombudsman, to each residential care facility for the elderly.

#### **§ 1569.37. Discrimination or Retaliation Against Persons Who Request Inspections**

No licensee shall discriminate or retaliate in any manner against any person receiving the services of such licensee's residential care facility for the elderly, or against any employee of the licensee's facility, on the basis, or for the reason that, the person or employee or any other person has initiated or participated in an inspection pursuant to Section 1569.35.



### **§ 1569.38. Residential Care Facilities; Posting of Complaints or Citations In Conspicuous Place**

Each residential care facility for the elderly shall place in a conspicuous place copies of all licensing reports issued by the department within the preceding 12 months, and all licensing reports issued by the department resulting from the most recent annual visit of the department to the facility. This subdivision shall not apply to any portion of a licensing report referring to a complaint that was found by the department to be unfounded or unsubstantiated. The facility, during the admission process, shall inform the resident and the resident's responsible person in writing that licensing reports are available for review at the facility, and that copies of licensing reports and other documents pertaining to the facility are available from the appropriate district office of the department. The facility shall provide the telephone number and address of the appropriate district office.

## **ARTICLE 4. Offenses**

### **§ 1569.40. Violations as misdemeanors; Punishment**

(a) Any person who violates this chapter, or who willfully or repeatedly violates any rule or regulation adopted under this chapter, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars (\$ 1,000), by imprisonment in the county jail for a period not to exceed one year, or by both the fine and imprisonment.

(b) Operation of a residential care facility for the elderly without a license shall be subject to a summons to appear in court. Unlicensed operation, establishment, management, conducting, or maintaining of a facility as prohibited by Section 1569.10 is a separate and distinct offense of this section and is punishable as a misdemeanor.

(c) A misdemeanor may be prosecuted regardless of any concurrent enforcement of civil penalties or administrative remedies available to the department.

(d) Notwithstanding any other provision of this chapter, any person, firm, partnership, association, or corporation who owns, operates, establishes, manages, conducts, or maintains a residential care facility for the elderly, as defined in subdivisions (k) and (l) of Section 1569.2 which is an unlicensed residential care facility for the elderly as defined in subdivision (a) of Section 1569.44 is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding two thousand five hundred dollars (\$ 2,500), by imprisonment in the county jail for a period not to exceed one year, or by both the fine and imprisonment.

### **§ 1569.405. Enforcement of prohibition against operating facility without license**

Upon a finding by the licensing authority that a facility is in operation without a license, a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may enforce Section 1569.10 by utilizing the procedures set forth in Chapter 5 (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code. A facility violating Section 1569.10 is guilty of an infraction punishable by a fine of two hundred dollars (\$ 200) for each day of violation. Upon a determination that a residential care facility for the elderly is in violation of Section 1569.10, and after a citation has been issued, the peace officer shall immediately notify the licensing authority in the department.

### **§ 1569.406. Penalty for informing residential care facility of proposed or pending**

## **investigation**

Any person who, without lawful authorization from a duly authorized officer, employee, or agent of the department, informs an owner, operator, employee, agent, or resident of a residential care facility for the elderly of an impending and unannounced site visit to that facility by personnel of the department, except for a site visit prior to licensing the facility, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars (\$ 1,000), by imprisonment in the county jail for a period not to exceed 180 days, or by both a fine and imprisonment.

### **§ 1569.41. Actions to enjoin violations**

The director may bring an action to enjoin the violation or threatened violation of Section 1569.10 or 1569.44, or both, in the superior court in and for the county in which the violation occurred or is about to occur. Any proceeding under this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the director shall not be required to allege facts necessary to show or tending to show lack of adequate remedy at law or irreparable damage or loss. Upon a finding by the director that the violations threaten the health or safety of persons in, or served by, a residential care facility for the elderly, the agency contracted with pursuant to Section 1569.13 may bring an action to enjoin the violation, threatened violation, or continued violation by any residential care facility for the elderly which is located in an area for which it is responsible pursuant to the terms of the contract.

With respect to any and all actions brought pursuant to this section alleging actual violation of Section 1569.10 or 1569.44, or both, the court shall, if it finds the allegations to be true, issue its order enjoining the residential care facility for the elderly from continuance of the violation.

### **§ 1569.42. Effect of transfer of ownership**

Any action brought by the director against a residential care facility for the elderly shall not abate by reason of a sale or other transfer of ownership of the residential care facility for the elderly which is a party to the action except with express written consent of the director.

### **§ 1569.43. Duties of district attorneys and city attorneys**

Notwithstanding any other provisions of this chapter, the district attorney of every county, and city attorneys in those cities which have city attorneys which prosecute misdemeanors pursuant to Sections 71099 and 72193 of the Government Code, shall, upon their own initiative or upon application by the state department or its authorized representative, institute and conduct the prosecution of any action for violation of this chapter within his or her jurisdiction.

### **§ 1569.44. "Unlicensed residential facility for the elderly"**

(a) A facility shall be deemed to be an "unlicensed residential care facility for the elderly" and "maintained and operated to provide residential care" if it is unlicensed and not exempt from licensure, and any one of the following conditions is satisfied:

(1) The facility is providing care and supervision, as defined by this chapter or the rules

and regulations adopted pursuant to this chapter.

(2) The facility is held out as, or represented as, providing care and supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

(3) The facility accepts or retains residents who demonstrate the need for care and supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

(4) The facility represents itself as a licensed residential facility for the elderly.

(b) No unlicensed residential facility for the elderly, as defined in subdivision (a), shall operate in this state.

(c) Upon discovery of an unlicensed residential care facility for the elderly, the department shall refer residents to the appropriate placement or adult protective services agency or the appropriate local or state long-term care ombudsman, if either of the following conditions exist:

(1) There is an immediate threat to the clients' health and safety.

(2) The facility will not cooperate with the licensing agency to apply for a license, meet licensing standards, and obtain a valid license.

#### **§ 1569.45.   Licensure of residential care facilities for the elderly**

A facility shall be licensed as a residential care facility for the elderly if it offers care and supervision, as defined, to its residents. Every residential care facility for the elderly in this state shall be licensed under this chapter.

#### **§ 1569.46.   Operation of unlicensed facility as unfair competition and unfair business practice**

Operation of an unlicensed facility shall be an act of unfair competition and an unfair business practice within the meaning of Chapter 5 (commencing with Section 17200) of the Business and Professions Code.

#### **§ 1569.47.   "Placement agency"; Duties; Reports of incidents jeopardizing health or safety of residents**

(a) "Placement agency" means any county welfare department, county social service department, county mental health department, county public guardian, general acute care hospital discharge planner or coordinator, state-funded program or private agency providing placement or referral services, conservator pursuant to Part 3 (commencing with Section 1800) of Division 4 of the Probate Code, conservator pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code, and regional center for persons with developmental disabilities which is engaged in finding homes or other places for the placement of elderly persons for temporary or permanent care.

(b) A placement agency shall not place individuals in licensed residential care facilities for the elderly when the individual, because of his or her health condition, cannot be cared for within the limits of the license or requires inpatient care in a health facility. Violation of this subdivision is a misdemeanor.

(c) A placement agency or employee of a placement agency shall not place, refer, or recommend placement of a person in a facility providing care and supervision, or protective supervision, unless the facility is licensed as a residential care facility for the elderly or is exempt from licensing under Section 1569.145. Violation of this subdivision is a misdemeanor.

(d) Any employee of a placement agency who knows, or reasonably suspects, that a

facility which is not exempt from licensing is operating without a license shall report the name and address of the facility to the department. Failure to report as required by this subdivision is a misdemeanor.

(e) The department shall investigate any report filed under subdivision (d). If the department has probable cause to believe that the facility which is the subject of the report is operating without a license, the department shall investigate the facility within 10 days after receipt of the report.

(f) A placement agency shall notify the appropriate licensing agency of any known or suspected incidents which would jeopardize the health or safety of residents in a residential care facility for the elderly. Reportable incidents include, but are not limited to, all of the following:

- (1) Incidents of physical abuse.
- (2) Any violation of personal rights.
- (3) Any situation in which a facility is unclean, unsafe, unsanitary, or in poor condition.
- (4) Any situation in which a facility has insufficient personnel or incompetent personnel on duty.
- (5) Any situation in which residents experience mental or verbal abuse.

#### **§ 1569.48. Emergency resident relocation fund**

A fund may be established to which 50 percent of each penalty assessed pursuant to Section 1569.49 is transmitted to the department for use by the Community Care Licensing Division of the department to establish an emergency resident relocation fund to be utilized for the relocation and care of residents when a facility's license is revoked or temporarily suspended, when appropriated by the Legislature. The money in the fund shall cover costs, including, but not limited to, transportation expenses, expenses incurred in notifying family members, and any other costs directly associated with providing continuous care to the residents. The department shall seek the advice of providers in developing a state plan for emergency resident relocation.

#### **§ 1569.485. Civil penalties; Appeals**

(a) Notwithstanding any other provision of this chapter, any person who violates Section 1569.10 or 1569.44, or both, shall be assessed by the department an immediate civil penalty in the amount of one hundred dollars (\$ 100) per resident for each day of the violation, unless other remedies available to the department, including criminal prosecution, are deemed more effective by the department.

(b) The civil penalty authorized in subdivision (a) shall be doubled if an unlicensed facility is operated and the operator refuses to seek licensure or the operator seeks licensure and the licensure application is denied and the operator continues to operate the unlicensed facility, unless other remedies available to the department, including criminal prosecution, are deemed more effective by the department.

(c) An operator may appeal the assessment to the director. The department shall adopt regulations setting forth the appeal procedure.

#### **§ 1569.49. Civil penalties**

(a) In addition to suspension or revocation of a license issued under this chapter, the department may levy a civil penalty in addition to the penalties of suspension or revocation.

The department shall adopt regulations setting forth the appeal procedures for deficiencies.

(b) The amount of the civil penalty shall not be less than twenty-five dollars (\$ 25) or more than fifty dollars (\$ 50) per day for each violation of this chapter except where the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as determined by the department. In no event, shall a civil penalty assessment exceed one hundred fifty dollars (\$ 150) per day.

(c) Notwithstanding Section 1569.33, any residential care facility for the elderly that is cited for repeating the same violation of this chapter within 12 months of the first violation is subject to an immediate civil penalty of one hundred fifty dollars (\$ 150) and fifty dollars (\$ 50) for each day the violation continues until the deficiency is corrected.

(d) Any residential care facility for the elderly that is assessed a civil penalty pursuant to subdivision (c) which repeats the same violation of this chapter within 12 months of the violation subject to subdivision (c) shall be assessed an immediate civil penalty of one thousand dollars (\$ 1,000) and one hundred dollars (\$ 100) for each day the violation continues until the deficiency is corrected.

The department shall adopt regulations implementing this section.

#### **§ 1569.495. Remedies not exclusive**

The civil, criminal, and administrative remedies available to the department pursuant to this article are not exclusive, and may be sought and employed in any combination deemed advisable by the state department to enforce this chapter.

### **ARTICLE 5. Suspension and Revocation**

#### **§ 1569.50. Grounds for suspension or revocation of license**

The department may deny an application for a license or may suspend or revoke any license issued under this chapter upon any of the following grounds and in the manner provided in this chapter:

(a) Violation by the licensee of this chapter or of the rules and regulations adopted under this chapter.

(b) Aiding, abetting, or permitting the violation of this chapter or of the rules and regulations adopted under this chapter.

(c) Conduct which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility or the people of the State of California.

(d) The conviction of a licensee, or other person mentioned in Section 1569.17 at any time before or during licensure, of a crime as defined in Section 1569.17.

(e) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services for the care of clients.

The director may temporarily suspend any license, prior to any hearing when, in the opinion of the director, the action is necessary to protect residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety. The director shall notify the licensee of the temporary suspension and the effective date of the temporary suspension and at the same time shall serve the provider with an accusation. Upon receipt of a notice of defense to the accusation by the licensee, the director shall, within 15 days, set the matter for hearing, and the hearing shall be held as soon as possible but not later

than 30 days after receipt of the notice. The temporary suspension shall remain in effect until the time the hearing is completed and the director has made a final determination on the merits. However, the temporary suspension shall be deemed vacated if the director fails to make a final determination on the merits within 30 days after the original hearing has been completed.

**§ 1569.51. Proceedings for suspension, revocation, or denial of license; law governing; standard of proof; hearing; continuance**

(a) Proceedings for the suspension, revocation, or denial of a license under this chapter shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the state department shall have all the powers granted by these provisions. In the event of conflict between this chapter and those provisions of the Government Code, the provisions of the Government Code shall prevail.

(b) In all proceedings conducted in accordance with this section, the standard of proof to be applied shall be by the preponderance of the evidence.

(c) If the license is not temporarily suspended pursuant to Section 1569.50, the hearing shall be held within 90 days after receipt of the notice of defense, unless a continuance of the hearing is granted by the department or the administrative law judge. When the matter has been set for hearing only the administrative law judge may grant a continuance of the hearing. The administrative law judge may, but need not, grant a continuance of the hearing, only upon finding the existence of one or more of the following:

(1) The death or incapacitating illness of a party, a representative or attorney of a party, a witness to an essential fact, or of the parent, child, or member of the household of such person, when it is not feasible to substitute another representative, attorney, or witness because of the proximity of the hearing date.

(2) Lack of notice of hearing as provided in Section 11509 of the Government Code.

(3) A material change in the status of the case where a change in the parties or pleadings requires postponement, or an executed settlement or stipulated findings of fact obviate the need for hearing. A partial amendment of the pleadings shall not be good cause for continuance to the extent that the unamended portion of the pleadings is ready to be heard.

(4) A stipulation for continuance signed by all parties or their authorized representatives, including, but not limited to, a representative, which is communicated with the request for continuance to the administrative law judge no later than 25 business days before the hearing.

(5) The substitution of the representative or attorney of a party upon showing that the substitution is required.

(6) The unavailability of a party, representative, or attorney of a party, or witness to an essential fact due to a conflicting and required appearance in a judicial matter if when the hearing date was set, the person did not know and could neither anticipate nor at any time avoid the conflict, and the conflict with request for continuance is immediately communicated to the administrative law judge.

(7) The unavailability of a party, a representative or attorney of a party, or a material witness due to an unavoidable emergency.

(8) Failure by a party to comply with a timely discovery request if the continuance request is made by the party who requested the discovery.

### **§ 1569.511. Testimony of Witnesses Outside the Presence of the Respondent; Clearing of Hearing Room**

(a) The administrative law judge conducting a hearing under this article may permit the testimony of a child witness, or a similarly vulnerable witness, including a witness who is developmentally disabled, to be taken outside the presence of the respondent or respondents if all of the following conditions exist:

(1) The administrative law judge determines that taking the witness's testimony outside the presence of the respondent or respondents is necessary to ensure truthful testimony.

(2) The witness is likely to be intimidated by the presence of the respondent or respondents.

(3) The witness is afraid to testify in front of the respondent or respondents.

(b) If the testimony of the witness is taken outside of the presence of the respondent or respondents, the department shall provide for the use of one-way closed-circuit television so the respondent or respondents can observe the testimony of the witness. Nothing in this section shall limit a respondent's right of cross-examination.

(c) The administrative law judge conducting a hearing under this section may clear the hearing room of any persons who are not a party to the action in order to protect any witness from intimidation or other harm, taking into account the rights of all persons.

### **§ 1569.515. Application of provisions regarding payment of witness fees**

Notwithstanding Section 11510 of the Government Code, witnesses subpoenaed at the request of the department for a hearing conducted pursuant to this article who attend a hearing may be paid by the department witness fees and mileage as provided by Section 68093 of the Government Code. In addition, the department may pay actual, necessary, and reasonable expenses in an amount not to exceed the per diem allowance payable to a nonrepresented state employee on travel status. The department may pay witness expenses pursuant to this section in advance of the hearing.

### **§ 1569.52. Effect of withdrawal of application; Effect of suspension, expiration, or forfeiture by operation of law**

The withdrawal of an application for a license after it has been filed with the department shall not, unless the department consents in writing to such withdrawal, deprive the department of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any such ground.

The suspension, expiration, or forfeiture by operation of law of a license issued by the department, or its suspension, forfeiture, or cancellation by order of the department or by order of a court of law, or its surrender without the written consent of the department, shall not deprive the department of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

### **§ 1569.525. Temporary suspension to protect residents or clients from threat to health or safety**

If the director determines that it is necessary to temporarily suspend any license of a residential care facility for the elderly in order to protect the residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety pursuant to Section 1569.50, the department shall make every effort to minimize trauma for the residents.

The department shall contact any local agency that may have placement or advocacy responsibility for the residents of a residential care facility for the elderly after a decision is made to temporarily suspend the license of the facility and prior to its implementation. The department shall work with these agencies to locate alternative placement sites and to contact relatives responsible for the care of these residents.

The department shall use physicians and surgeons and other medical personnel deemed appropriate by the department to provide onsite evaluation of the residents and assist in the transfer.

The department may require the licensee to prepare and submit to the licensing agency a written plan for relocation and compliance with the terms and conditions of the approved plans, and to provide other information as necessary for the enforcement of this section.

#### **§ 1569.53. Reinstatement of license; Notice of suspension or revocation to county officials**

Any license suspended or revoked pursuant to this chapter may be reinstated pursuant to Section 11522 of the Government Code.

Whenever a license issued under this chapter for a residential care facility for the elderly is suspended, revoked, temporarily suspended, forfeited, canceled, or expires, the department shall provide written notice of the occurrence within 10 days to the local director of social services in the county in which the facility is located.

#### **§ 1569.54. Order to remove resident**

(a) (1) When the department does not suspend the license of a residential care facility for the elderly pursuant to this article, the department may still order the licensee to remove a resident who has a health condition which cannot be cared for within the limits of the license or requires inpatient care in a health facility as determined by the department.

(2) Where the department determines that the resident's mental or physical condition requires immediate transfer from the facility in order to protect the health and safety of the resident, the department may order the licensee to remove the resident after the department consults with a physician or other medical professional about the transfer and ways in which transfer trauma can be minimized.

(b) (1) Where the department alleges that a resident has a health condition which cannot be cared for within the limits of the license or requires inpatient care in a health facility, the department shall give notice to the resident, his or her legal representative when appropriate, and the licensee. The notice shall specify a deadline for submitting a written plan for relocation and inform the resident of his or her right for a review and determination by an interdisciplinary team as provided for in Section 1569.34. The resident, or his or her legal representative, shall have three working days to inform the licensee of the request for review. Upon receiving a request from a resident, or his or her legal representative, for a review and determination, the licensee shall forward the request to the department within two working days of receipt.



Failure or refusal by the licensee to submit the request for review and determination to the department may be subject to the civil penalties specified in Section 1569.49.

(2) The review and determination shall be completed within 30 days from the date that the resident was initially informed of the need to relocate. If the determination is made that the resident must relocate, the notice shall include a plan for transfer, including attempts to minimize transfer trauma for the resident.

The department may require the licensee to prepare and submit to the licensing agency a written plan for relocation, to comply with the terms and conditions of the approved plans and to provide other information as necessary for the enforcement of this section.

(c) The provisions allowing for a resident's right to a review prior to transfer as provided for in subdivision (b) neither negates the department's authority and responsibility to require an immediate transfer according to paragraph (2) of subdivision (a) when the department finds and provides evidence that the resident must be relocated in order to protect the health and safety of the resident, nor implies any right to a fair hearing pursuant to Chapter 7 (commencing with Section 10950) of Part 2 of Division 9 of the Welfare and Institutions Code.

The department shall specify in regulations the process provided for pursuant to this section for making relocation decisions and for appealing and reviewing these decisions.

#### **§ 1569.545. Report to Legislature**

The Auditor General shall report to the Legislature by April 1, 1988, on the implementation of the procedures established in Section 1569.54.

### **ARTICLE 5.5. Employee Actions**

#### **§ 1569.58. Prohibited positions or employment; grounds; notice; removal; appeal; petition for reinstatement**

(a) The department may prohibit any person from being a member of the board of directors, an executive director, a board member, or an officer of a licensee, or a licensee from employing, or continuing the employment of, or allowing in a licensed facility, or allowing contact with clients of a licensed facility by, any employee, prospective employee, or person who is not a client who has:

(1) Violated, or aided or permitted the violation by any other person of, any provisions of this chapter or of any rules or regulations promulgated under this chapter.

(2) Engaged in conduct which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility, or the people of the State of California.

(3) Been denied an exemption to work or to be present in a facility, when that person has been convicted of a crime as defined in Section 1569.17.

(4) Engaged in any other conduct which would constitute a basis for disciplining a licensee.

(5) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services for the care of clients.

(b) The excluded person, the facility, and the licensee shall be given written notice of the basis of the department's action and of the excluded person's right to an appeal. The notice shall be served either by personal service or by registered mail. Within 15 days after

the department serves the notice, the excluded person may file with the department a written appeal of the exclusion order. If the excluded person fails to file a written appeal within the prescribed time, the department's action shall be final.

(c) (1) The department may require the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility pending a final decision of the matter, when, in the opinion of the director, the action is necessary to protect residents or clients from physical or mental abuse, abandonment, or any other substantial threat to their health or safety.

(2) If the department requires the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility the department shall serve an order of immediate exclusion upon the excluded person which shall notify the excluded person of the basis of the department's action and of the excluded person's right to a hearing.

(3) Within 15 days after the department serves an order of immediate exclusion, the excluded person may file a written appeal of the exclusion with the department. The department's action shall be final if the excluded person does not appeal the exclusion within the prescribed time. The department shall do the following upon receipt of a written appeal:

(A) Within 30 days of receipt of the appeal, serve an accusation upon the excluded person.

(B) Within 60 days of receipt of a notice of defense by the excluded person pursuant to Section 11506 of the Government Code, conduct a hearing on the accusation.

(4) An order of immediate exclusion of the excluded person from the facility shall remain in effect until the hearing is completed and the director has made a final determination on the merits. However, the order of immediate exclusion shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

(d) An excluded person who files a written appeal of the exclusion order with the department pursuant to this section shall, as part of the written request, provide his or her current mailing address. The excluded person shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

(e) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department.

(f) The department may institute or continue a disciplinary proceeding against a member of the board of directors, an executive director, or an officer of a licensee or an employee, prospective employee, or person who is not a client upon any ground provided by this section, or enter an order prohibiting any person from being a member of the board of directors, an executive director, or an officer of a licensee, or the excluded person's employment or presence in the facility or otherwise take disciplinary action against the excluded person, notwithstanding any resignation, withdrawal of employment application or change of duties by the excluded person, or any discharge, failure to hire or reassignment of the excluded person by the licensee or that the excluded person no longer has contact with clients at the facility.

(g) A licensee's failure to comply with the department's exclusion order after being

notified of the order shall be grounds for disciplining the licensee pursuant to Section 1569.50.

(h) (1) (A) In cases where the excluded person appealed the exclusion order and there is a decision and order of the department upholding the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or from being a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement one year after the effective date of the decision and order of the department upholding the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the decision and order.

(2) (A) In cases where the department informed the excluded person of his or her right to appeal the exclusion order and the excluded person did not appeal the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement after one year has elapsed from the date of the notification of the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the exclusion order.

#### **§ 1569.59. Prohibition on Employment or Contact with Clients; Affect of Prior Disciplinary Action**

(a) (1) If the department determines that a person was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.2 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to the chapter.

(2) If the department determines that a person previously was issued a certificate of approval by a foster family agency which was revoked by the department pursuant to subdivision (b) of Section 1534 within the preceding two years, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter.

(b) If the department determines that the person had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter and as follows:

(1) In cases where the applicant petitioned for a hearing, the department shall exclude the person from, and remove him or her from the position of, a member of the board of

directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(c) If the department determines that the person had previously applied for a certificate of approval with a foster family agency and the department ordered the foster family agency to deny the application pursuant to subdivision (b) of Section 1534, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter and as follows:

(1) In cases where the applicant petitioned for a hearing, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(d) Exclusion or removal of an individual pursuant to this section shall not be considered an order of exclusion for purposes of Section 1569.58 or any other law.

(e) The department may determine not to exclude a person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter if it has been determined that the reasons for the denial of the application or revocation of the facility license or certificate of approval were due to circumstances or conditions that either have been corrected or are no longer in existence.

## **ARTICLE 6. Other Provisions**

### **§ 1569.60. Surety bonds**

(a) The director shall require as a condition precedent to the issuance of any license for a residential care facility for the elderly, if the licensee handles or will handle any money of a person within the facility, that the applicant for the license file or have on file with the department a bond issued by a surety company admitted to do business in this state in a sum to be fixed by the department based upon the magnitude of the operations of the applicant, but which sum shall not be less than one thousand dollars (\$ 1,000), running to the State of California and conditioned upon his or her faithful and honest handling of the money of persons within the facility.

(b) The failure of any licensee under this chapter to maintain on file with the state department a bond in the amount prescribed by the director or who embezzles the trust funds

of a person in the facility shall constitute cause for the revocation of the license.

(c) The provisions of this section shall not apply if the licensee handles moneys of persons within the residential care facility for the elderly in amounts less than fifty dollars (\$ 50) per person and less than five hundred dollars (\$ 500) for all persons in any month.

#### **§ 1569.601. Variances from bonding requirements**

The director may grant a partial or total variance from the bonding requirements of Section 1569.60 for any residential care facility for the elderly if he or she finds that compliance with them is so onerous that a residential care facility for the elderly will cease to operate, and if he or she also finds that money of the persons received or cared for in the facility has been, or will be, deposited in a bank in this state, in a trust company authorized to transact a trust business in this state, or in a savings and loan association in this state, upon condition that the money may not be withdrawn except on authorization of the guardian or conservator of the person.

#### **§ 1569.61. Availability of Public Records**

The department shall develop and maintain at each district office a file for each facility in that district, containing all documents regarding the facility that were received or created by the department on or after January 1, 1999, and that are not confidential under other provisions of law. This file shall be available immediately upon the request of any consumer who shall have the right to obtain copies of documents from the file upon the payment of a reasonable charge for the copies.

#### **§ 1569.613. Administrators; qualifications**

Any person who becomes an administrator of a residential care facility for the elderly on or after January 1, 1992, shall, at a minimum, comply with all of the following:

- (a) Be at least 21 years of age.
- (b) Have a valid certificate as an administrator of a residential care facility for the elderly as required by Section 1569.616, or have submitted the documentation required to obtain a certificate pursuant to subdivision (d) of Section 1569.616.
- (c) Have a high school diploma or pass a general educational development test as described in Article 3 (commencing with Section 51420) of Chapter 3 of Part 28 of the Education Code.
- (d) Obtain criminal record clearance as provided for in Sections 1569.17 and 1569.171.

#### **§ 1569.616. Administrator certification program; completion required; exemptions; hours of instruction; false representation; renewal, and revocation**

- (a) (1) An administrator of a residential care facility for the elderly shall be required to successfully complete a department approved certification program prior to employment.
- (2) In those cases where the individual is both the licensee and the administrator of a facility, or a licensed nursing home administrator, the individual shall comply with the requirements of this section unless he or she qualifies for one of the exemptions provided for in subdivision (b).

(3) Failure to comply with this section shall constitute cause for revocation of the license of the facility where an individual is functioning as the administrator. The licensee shall notify the department within 30 days of any change in administrators.

(b) Individuals seeking exemptions under paragraph (2) of subdivision (a) shall meet the following criteria and fulfill the required portions of the certification program, as the case may be:

(1) An individual designated as the administrator of a residential care facility for the elderly who holds a valid license as a nursing home administrator issued in accordance with Chapter 8.5 (commencing with Section 3901) of Division 2 of the Business and Professions Code shall be required to complete the areas in the uniform core of knowledge required by this section that pertain to the law, regulations, policies, and procedural standards that impact the operations of residential care facilities for the elderly, the use, misuse, and interaction of medication commonly used by the elderly in a residential setting, and resident admission, retention, and assessment procedures, equal to 12 hours of classroom instruction. An individual meeting the requirements of this paragraph shall not be required to take a written test.

(2) In those cases where the individual was both the licensee and administrator on or before July 1, 1991, the individual shall be required to complete all the areas specified for the certification program but shall not be required to take the written test required by this section. Those individuals exempted from the written test shall be issued a conditional certification that is valid only for the administrator of the facility for which the exemption was granted.

(A) As a condition to becoming an administrator of another facility the individual shall be required to pass the written test provided for in this section.

(B) As a condition to applying for a new facility license, the individual shall be required to pass the written test provided for in Section 1569.23.

(c) (1) The administrator certification program shall require a minimum of 40 hours of classroom instruction that provides training on a uniform core of knowledge in each of the following areas:

(A) Laws, regulations, and policies and procedural standards that impact the operations of residential care facilities for the elderly.

(B) Business operations.

(C) Management and supervision of staff.

(D) Psychosocial needs of the elderly.

(E) Community and support services.

(F) Physical needs for elderly persons.

(G) Use, misuse, and interaction of medication commonly used by the elderly.

(H) Resident admission, retention, and assessment procedures.

(I) Training focused specifically on serving clients with dementia. This training shall be for at least four hours.

(2) Individuals applying for certification under this section shall successfully complete an approved certification program, pass a written test administered by the department within 60 days of completing the program, and submit the documentation required by subdivision (d) to the department within 30 days of being notified of having passed the test. The department may extend these time deadlines for good cause. The department shall notify the applicant of his or her test results within 30 days of administering the test.

(d) The department shall not begin the process of issuing a certificate until receipt of all of the following:

(1) A certificate of completion of the administrator training required pursuant to this chapter.

(2) The fee required for issuance of the certificate. A fee of one hundred dollars (\$100) shall be charged by the department to cover the costs of processing the application for certification.

(3) Documentation of passing the written test or of qualifying for an exemption pursuant to subdivision (b).

(4) Submission of fingerprints. The department and the Department of Justice shall expedite the criminal record clearance for holders of certificates of completion. The department may waive the submission for those persons who have a current clearance on file.

(e) It shall be unlawful for any person not certified under this section to hold himself or herself out as a certified administrator of a residential care facility for the elderly. Any person willfully making any false representation as being a certified administrator is guilty of a misdemeanor.

(f) (1) Certificates issued under this section shall be renewed every two years and renewal shall be conditional upon the certificate holder submitting documentation of completion of 40 hours of continuing education related to the core of knowledge specified in paragraph (1) of subdivision (c). For purposes of this section, individuals who hold a valid license as a nursing home administrator issued in accordance with Chapter 8.5 (commencing with Section 3901) of Division 2 of the Business and Professions Code and meet the requirements of paragraph (1) of subdivision (b) shall only be required to complete 20 hours of continuing education.

(2) Every certified administrator of a residential care facility for the elderly is required to renew his or her certificate and shall complete the continuing education requirements of this subdivision whether he or she is certified according to subdivision (a) or (b). On or after January 1, 2002, at least eight hours of the 40-hour continuing education requirement for a certified administrator of a residential care facility for the elderly shall include instruction on serving clients with dementia, including, but not limited to, instruction related to direct care, physical environment, and admission procedures and assessment.

(3) Certificates issued under this section shall expire every two years, on the anniversary date of the initial issuance of the certificate, except that any administrator receiving his or her initial certification on or after January 1, 1999, shall make an irrevocable election to have his or her recertification date for any subsequent recertification either on the date two years from the date of issuance of the certificate or on the individual's birthday during the second calendar year following certification. The department shall send a renewal notice to the certificate holder 90 days prior to the expiration date of the certificate. If the certificate is not renewed prior to its expiration date, reinstatement shall only be permitted after the certificate holder has paid a delinquency fee equal to three times the renewal fee and has provided evidence of completion of the continuing education required.

(4) To renew a certificate, the certificate holder shall, on or before the certificate expiration date, request renewal by submitting to the department documentation of completion of the required continuing education courses and pay the renewal fee of one hundred dollars (\$100), irrespective of receipt of the department's notification of the renewal. A renewal request postmarked on or before the expiration of the certificate is proof of compliance with this paragraph.

(5) A suspended or revoked certificate is subject to expiration as provided for in this

section. If reinstatement of the certificate is approved by the department, the certificate holder, as a condition precedent to reinstatement, shall pay a fee in an amount equal to the renewal fee, plus the delinquency fee, if any, accrued at the time of its revocation or suspension.

(6) A certificate that is not renewed within four years after its expiration shall not be renewed, restored, reissued, or reinstated except upon completion of a certification program, passing any test that may be required of an applicant for a new certificate at that time, and paying the appropriate fees provided for in this section.

(7) A fee of twenty-five dollars (\$25) shall be charged for the reissuance of a lost certificate.

(8) A certificate holder shall inform the department of his or her employment status within 30 days of any change.

(g) The department may revoke a certificate issued under this section for any of the following:

(1) Procuring a certificate by fraud or misrepresentation.

(2) Knowingly making or giving any false statement or information in conjunction with the application for issuance of a certificate.

(3) Criminal conviction unless an exemption is granted pursuant to Section 1569.17.

(h) The certificate shall be considered forfeited under the following conditions:

(1) The administrator has had a license revoked, suspended, or denied as authorized under Section 1569.50.

(2) The administrator has been denied employment, residence, or presence in a facility based on action resulting from an administrative hearing pursuant to Section 1569.58.

(i) (1) The department shall establish, by regulation, the program content, the testing instrument, the process for approving certification programs, and criteria to be used in authorizing individuals, organizations, or educational institutions to conduct certification programs and continuing education courses. These regulations shall be developed in consultation with provider and consumer organizations, and shall be made available at least six months prior to the deadline required for certification. The department may deny vendor approval to any agency or person that has not provided satisfactory evidence of their ability to meet the requirements of vendorization set out in the regulations adopted pursuant to subdivision (j).

(2) The department may authorize vendors to conduct the administrator certification training program pursuant to provisions set forth in this section. The department shall conduct the written test pursuant to regulations adopted by the department.

(3) The department shall prepare and maintain an updated list of approved training vendors.

(4) The department may inspect training programs and continuing education courses to determine if content and teaching methods comply with regulations. If the department determines that any vendor is not complying with the intent of this section, the department shall take appropriate action to bring the program into compliance, which may include removing the vendor from the approved list.

(5) The department shall establish reasonable procedures and timeframes not to exceed 30 days for the approval of vendor training programs.

(6) The department may charge a reasonable fee, not to exceed one hundred fifty dollars (\$150) every two years to certification program vendors for review and approval of the initial 40-hour training program pursuant to subdivision (c). The department may also charge the vendor a fee not to exceed one hundred dollars (\$100) every two years for the review and approval of the continuing education courses needed for



recertification pursuant to this subdivision.

(j) This section shall be operative upon regulations being adopted by the department to implement the administrator certification program as provided for in this section.

(k) The department shall establish a registry for holders of certificates that shall include, at a minimum, information on employment status and criminal record clearance.

#### **§ 1569.617. Elderly and Adult Residential Certification Fund**

(a) (1) There is hereby created in the State Treasury, the Certification Fund from which moneys, upon appropriation of the Legislature, shall be expended by the department for the purpose of administering the residential care facilities for the elderly certification program provided under Sections 1569.23, 1569.615, and 1569.616, the adult residential facilities certification program pursuant to Section 1562.3, and the group home facilities certification program pursuant to Section 1522.41.

(2) All money contained in the Residential Care Facility for the Elderly Fund on the operative date of this paragraph shall be retained in the Certification Fund for appropriation for the purposes specified in paragraph (1).

(b) The fund shall consist of specific appropriations that the Legislature sets aside for use by the fund and all fees, penalties, and fines collected pursuant to Sections 1522.41, 1562.3, 1562.23, 1569.615, and 1569.616.

(c) For the 1998-99 fiscal year, the sum of not to exceed two hundred fifty thousand dollars (\$250,000) from the Certification Fund shall be appropriated to the State Department of Social Services to administer the group home facilities certification program pursuant to Section 1522.41. The department shall repay the appropriation made for the 1998-99 fiscal year into the Certification Fund upon receipt of fees pursuant to Section 1522.41.

#### **§ 1569.618. Presence of administrator during working hours; Responsibility of facility manager**

(a) The administrator designated by the licensee pursuant to subdivision (k) of Section 1569.15 shall be present at the facility during normal working hours. A facility manager designated by the licensee with notice to the department, shall be responsible for the operation of the facility when the administrator is temporarily absent from the facility.

(b) "Facility manager" means a person on the premises with the authority and responsibility necessary to manage and control the day-to-day operation of a residential care facility for the elderly and supervise the clients. The facility manager, licensee, and administrator, or any combination thereof, may be the same person provided he or she meets all applicable requirements. If the administrator is also the facility manager for the same facility, he or she shall be limited to the administration and management of only one facility.

#### **§ 1569.62. Training**

(a) The director shall ensure that licensees, administrators, and staffs of residential care facilities for the elderly have appropriate training to provide the care and services for which a license or certificate is issued.

(b) The department shall develop jointly with the Department of Aging, with input from provider organizations, requirements for a uniform core of knowledge within the required 20 hours of continuing education for administrators, and their designated substitutes, and for recertification of administrators of residential care facilities for the elderly. This knowledge base

shall include, as a minimum, basic understanding of the psychosocial and physical care needs of elderly persons and administration. The department shall develop jointly with the Department of Aging, with input from provider organizations, a uniform resident assessment tool to be used by all residential care facilities for the elderly. The assessment tool shall, in lay terms, help to identify resident needs for service and assistance with activities of daily living.

The departments shall develop a mandatory training program on the utilization of the assessment tool to be given to administrators and their designated substitutes.

#### **§ 1569.625. Legislative findings; Regulations requiring staff member training**

(a) The Legislature finds that the quality of services provided to residents of residential care facilities for the elderly is dependent upon the training and skills of staff. It is the intent of the Legislature in enacting this section to ensure that direct-care staff have the knowledge and proficiency to carry out the tasks of their jobs.

(b) The department shall adopt regulations to require staff members of residential care facilities for the elderly who assist residents with personal activities of daily living to receive appropriate training. This training shall consist of 10 hours of training within the first four weeks of employment and four hours annually thereafter. This training shall be administered on the job, or in a classroom setting, or any combination of the two. The department shall establish, in consultation with provider organizations, the subject matter required for this training.

(c) The training shall include, but not be limited to, the following:

- (1) Physical limitations and needs of the elderly.
- (2) Importance and techniques for personal care services.
- (3) Residents' rights.
- (4) Policies and procedures regarding medications.
- (5) Psychosocial needs of the elderly.

#### **§ 1569.626. Advertising for special care, special programming, or a special environment for elderly with dementia; training requirements**

All residential care facilities for the elderly that advertise or promote special care, special programming, or a special environment for persons with dementia, in addition to complying with the training requirements described in Section 1569.625, shall meet the following training requirements for all direct care staff:

(a) Six hours of resident care orientation within the first four weeks of employment. All six hours shall be devoted to the care of persons with dementia. The facility may utilize various methods of instruction including, but not limited to, preceptorship, mentoring, and other forms of observation and demonstration. The orientation time shall be exclusive of any administrative instruction.

(b) Eight hours of in-service training per year on the subject of serving residents with dementia. This training shall be developed in consultation with individuals or organizations with specific expertise in dementia care or by an outside source with expertise in dementia care. In formulating and providing this training, reference may be made to written materials and literature on dementia and the care and treatment of persons with dementia. This training requirement may be satisfied in one day or over a period of time. This training requirement may be provided at the facility or offsite and may include a combination of observation and practical application.

#### **§ 1569.627. Special features of facilities advertising for special care, special**

## **programming, or special environment for elderly with dementia**

Any residential care facility for the elderly that advertises or promotes special care, special programming, or a special environment for persons with dementia shall disclose to the department the special features of the facility in its plan of operation. This information shall be provided to the public by the facility upon request. The information shall include a brief narrative description of all of the following facility features:

- (a) Philosophy, including, but not limited to, program goals.
- (b) Preadmission assessment.
- (c) Admission.
- (d) Assessment.
- (e) Program.
- (f) Staff.
- (g) Staff training.
- (h) Physical environment.
- (i) Changes in condition, including, but not limited to, when and under what circumstances are changes made to a participant's care plan.
- (j) Success indicators.

### **§ 1569.63. Training of licensing personnel**

The director shall insure that licensing personnel at the department have appropriate training to properly carry out this chapter.

### **§ 1569.64. Training of department staff**

The department shall institute a staff development and training program within the organization structure to develop among staff the knowledge and understanding necessary to successfully carry out this chapter. Specifically, the department shall do all of the following:

- (a) Provide staff with 36 hours of training per year that reflect the unique needs of the elderly.
- (b) Give priority to applications from individuals with experience as care providers to the elderly.
- (c) Provide new staff with comprehensive training within the first six months of employment. This training shall, at a minimum, include the following core areas: administrative action process, client populations, conducting facility visits, cultural awareness, documentation skills, facility operations, human relation skills, interviewing techniques, investigation processes, and regulation administration.

This training shall also provide new staff who have earned fewer than 16 semester units in gerontology or geriatric education from an accredited college at least 40 hours of preservice training in the aging process and the psycho-social and health care needs of elderly persons.

### **§ 1569.65. Consumer guideline brochure**

(a) On or before January 1, 1987, the department shall publish a comprehensive consumer guideline brochure to assist persons in the evaluation and selection of a licensed residential care facility for the elderly. The department shall develop the brochure for publication with the advice and assistance of the Advisory Committee on Community Care

Facilities and the State Department of Aging.

(b) The consumer guideline brochure shall include, but not be limited to, guidelines highlighting resident health and safety issues to be considered in the selection of a residential care facility for the elderly, locations of the licensing offices of the State Department of Social Services where facility records may be reviewed, types of local organizations which may have additional information on specific facilities, and a list of recommended inquiries to be made in the selection of a residential care facility for the elderly.

(c) Upon publication, the consumer guideline brochures shall be distributed to statewide resident advocacy groups, statewide consumer advocacy groups, state and local ombudsmen, and all licensed residential care facilities for the elderly. The brochure shall be made available on request to all other interested persons.

**§ 1569.66. List of licensed facilities**

At least annually, the director shall publish and make available to interested persons a list or lists covering all licensed residential care facilities for the elderly and the services for which each facility has been licensed. A list or lists containing changes shall be published and made available periodically, as determined by the director.

**§ 1569.67. Written notice of availability of licensing analysts' inspection reports**

(a) The department shall develop a written notice for the purpose of informing any individual who requests information regarding admission to a residential care facility for the elderly that the department's licensing analysts' inspection reports on all residential care facilities for the elderly are on file and are available for public review in the department's community care licensing district office nearest to each residential care facility for the elderly.

(b) The department shall adopt regulations requiring that each residential care facility provide his notice, as well as the address of the nearest departmental community care licensing district office, to any individual who requests information regarding admission to a residential care facility for the elderly and to any resident of the facility.

**§ 1569.68. Inclusion of license number in advertisement or correspondence**

All residential care facilities shall be required to include their current license number in any public advertisement or correspondence.

**§ 1569.681. Disclosure of license number in advertising**

(a) Each residential care facility for the elderly licensed under this chapter shall reveal its license number in all advertisements, publications, or announcements made with the intent to attract clients or residents.

(b) Advertisements, publications, or announcements subject to the requirements of subdivision (a) referred to herein include, but are not limited to, those contained in the following:

- (1) Newspaper or magazine.
- (2) Consumer report.
- (3) Announcement of intent to commence business.
- (4) Telephone directory yellow pages.
- (5) Professional or service directory.

(6) Radio or television commercial.

## **ARTICLE 6.5. Special Care Model Projects**

### **§ 1569.69. (Operative until January 1, 1998) Legislative findings and declarations**

The Legislature hereby finds and declares all of the following:

(a) Persons with the medical diagnosis of dementia, including, but not limited to, Alzheimer's disease, have difficulty finding facilities which provide appropriate care and supervision or which will serve this client population.

(b) Persons with dementia may manifest their disease by wandering, disruption of normal activity and sleep patterns, or exhibiting behavior which, if not managed in an appropriate manner, can result in aggression, combativeness, or other inappropriate behaviors.

(c) Persons with dementia may benefit from an environment which provides perimeter security, yet freedom of movement within their environment.

(d) Only certain psychiatric or skilled nursing facilities are currently allowed by law to have secured environments, yet persons with dementia are not considered to have a mental illness, nor do they necessarily need 24-hour skilled nursing care.

(e) This can result in overdependence upon and inappropriate use of chemical or physical restraints to control the behavior of persons with dementia.

(f) Existing law which prohibits secured or locked perimeters in residential care facilities for the elderly may cause persons with dementia to be placed in more restrictive and sometimes inappropriate levels of care.

(g) It is, therefore, the intent of the Legislature to amend existing law and allow locked or secured perimeters, which may include exit doors, in selected licensed residential care facilities for the elderly in a pilot project to determine the appropriateness of generally allowing locked or secured perimeters in all such facilities which care for persons with dementia.

### **§ 1569.691. (Operative until January 1, 1998) Selection of facilities for program**

(a) The department, shall select and monitor facilities to participate in a program, as model projects, to determine the appropriateness of allowing secured perimeters in residential care facilities for the elderly for persons with dementia, including, but not limited to, Alzheimer's disease.

(b) Model projects shall commence operation during the 1990 calendar year and shall remain in operation until January 1, 1996. The program shall consist of six facilities or sites.

(1) Three sites shall be residential care facilities for the elderly that specialize in caring for persons with the medical diagnosis of dementia and have secured perimeters.

(2) Three sites shall be residential care facilities for the elderly that specialize in caring for persons with the medical diagnosis of dementia and use door alarms or wrist bands, or other types of devices, to provide a safe and secure environment.

(c) The department shall develop criteria and standards for participation in the pilot project, that shall include, but not be limited to, the following:

(1) The facility shall be a residential care facility for the elderly, with licenses in good standing. The facilities must maintain substantial compliance with all applicable regulations and statutes during the pilot project.

(2) The facility shall have or develop a special program for persons with dementia that

shall be reviewed by the department and by the Alzheimer's Diagnostic and Treatment Centers established pursuant to Section 413.

(3) The facility shall submit to the department a plan of operation that includes a description of the type of security, the method used to provide access to the department, visitors, community and advocacy groups, an emergency evacuation plan that has been approved by the local fire authority, staffing standards, qualifications and training of staff, and any other items deemed to be necessary by the department.

(4) The facility shall obtain the appropriate fire clearance from the local fire authority.

(5) Each facility shall have admission, retention, and transfer criteria to select residents who may be placed in the facility during the pilot project. A resident shall not have other mental or physical health care needs beyond those caused by the dementing illness which would otherwise disqualify that person for acceptance or retention in a residential care facility for the elderly.

(6) The facility shall have a consulting physician to review the medical condition of residents.

(7) The facility shall conduct an admission assessment of the resident prior to admission, that shall include:

(A) A minimal test to assess the resident's level of cognitive impairment.

(B) An activities of daily living assessment.

(C) A behavioral assessment for the purpose of designing and implementing an individualized care plan of therapeutic activities.

The department shall develop criteria for granting exemptions from the requirements of this paragraph for circumstances when emergency placement is necessary.

(8) The facility shall provide a program of planned therapeutic activities which take place throughout the waking hours which include a minimum of 40 percent large motor activities and the balance to be perceptual and sensory stimulation.

(9) The facility shall ensure that all staff who work with the residents go through training consisting of at least 25 hours covering the following issues:

(A) Facility orientation.

(B) Normal aging process.

(C) Characteristics of Alzheimer's disease and related dementias.

(D) Activities for persons with dementia.

(E) Communication with residents with dementia.

(F) Understanding the family of residents with dementia.

(G) Medications and misuse.

(H) Aid to daily living.

(I) Staff burnout.

(J) Developing problem-solving skills.

(10) The facility shall ensure that the staff receives ongoing continuing education in the care of residents with dementia.

(11) The facility shall provide an ongoing assessment of the resident to monitor problem behaviors and medical condition.

(12) The facility shall provide monthly family council meetings.

(d) The department shall consult with the Alzheimer's disease diagnostic and treatment centers funded by the State Department of Health Services pursuant to Section 413 or other agencies deemed appropriate to establish evaluative criteria for appropriate diagnosis, assessment, treatment, and discharge plans for residents of facilities participating in the model projects.

(e) The Health and Welfare Agency's Alzheimer's Disease and Related Disorders

Advisory Group, or any other entity, may provide assistance to the department, as requested by the department.

**§ 1569.692. (Operative until January 1, 1998) Conditions for secured or locked perimeter**

(a) Notwithstanding paragraph (6) of subdivision (a) of Section 87572 of Title 22 of the California Code of Regulations, participating residential care facilities for the elderly may operate with a secured or locked perimeter if all of the following conditions are met:

- (1) The resident is never locked in his or her room.
- (2) With respect to residential care facility for the elderly sites, the resident is never physically or chemically restrained. For purposes of this section "chemically restrained" does not include medication prescribed by a physician and surgeon which is an essential component of the resident's treatment plan and which is generally recognized by the Alzheimer's disease diagnostic and treatment centers established pursuant to Section 413 as appropriate treatment for a person with a medical diagnosis of dementia.
- (3) With respect to residential care facility for the elderly sites, the resident has freedom of movement within the secured perimeter.
- (4) Evidence shall be provided in the resident's file that a formal mental status questionnaire has been administered to rule out mental illness and to determine cognitive level.
- (5) Evidence shall be provided in the resident's file that the following diagnostic tests have been given, as appropriate, to rule out reversible disease:
  - (A) At least one type of brain imaging test.
  - (B) A complete blood count.
  - (C) Serum glucose.
  - (D) Serum urea nitrogen.
  - (E) Creatinine level.
  - (F) Thyroid function.
  - (G) Seriology test for syphilis.
  - (H) Determination of B-12 and Folate levels.
  - (I) Urinalysis.
  - (J) Other tests indicated by medical history or physician and surgeon.

The department, in consultation with the Alzheimer's disease diagnostic and treatment centers, established pursuant to Section 413, may require other tests or change the tests required in this paragraph to reflect advances in diagnostic technology.

(b) For purposes of this section "secured perimeter" means that the external boundary of the facility, including yard areas, are functionally locked to the resident. If a facility provides multiple levels of care or has separate and distinct sections to the physical layout, each level or section licensed by the department may be secured. The purpose of the secured perimeter is to provide free movement in a safe area to residents within the boundaries of the facility, including yard areas, to prevent wandering.

**§ 1569.693. (Operative until January 1, 1998) "Functionally locked"**

For purposes of this article, "functionally locked" means that the perimeter of the facility is secured by means which are beyond the functional capacity of the resident to negotiate or deduce.

#### **§ 1569.694. (Operative until January 1, 1998) Report to Legislature**

(a) The department shall report its findings and recommendations to the Legislature by January 1, 1993. The recommendations shall include whether to allow secured or locked residential care facilities for the elderly throughout the state, and, if so, the method or methods of security to be allowed, admission and retention criteria for residents who can be placed in secure residential care facilities for the elderly, any limits on the size of the facility which may be secured, staffing standards, training and qualifications of staff and program content.

The department shall also report on the success of the model projects by measuring all of the following:

(1) The extent to which the three model project sites with a secured perimeter provide an environment which minimizes acting out or other inappropriate behavior compared with the other model project sites.

(2) The extent to which the use of a secured perimeter environment results in a decrease or elimination of the use of behavioral medication traditionally used to treat residents with dementia compared to the other model project sites.

(3) A comparison of the number of incidences of wandering in the model project sites with a secured perimeter versus model project sites using door alarms, wrist bands, or other such devices, and the extent to which staff time is diverted away from direct care.

(b) After the release of the report described under subdivision (a), the Health and Welfare Agency shall, by January 1, 1995, convene an advisory group that may be comprised of, but is not limited to, representatives of provider organizations, advocates, the Department of Aging, the State Department of Social Services, the State Long Term Care Ombudsmen, and the Alzheimer's Association to, as appropriate, recommend, based on the report described under subdivision (a) and other relevant information, specific standards for a secured perimeter program.

#### **§ 1569.695. (Operative until January 1, 1998) Guidelines, exemption from the Administrative Procedures Act**

Guidelines developed to implement this model project shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code).

#### **§ 1569.696. (Operative until January 1, 1998) Application of statutes and regulations applicable to residential care facilities**

All statutes and regulations applicable to residential care facilities for the elderly shall apply to the model project facilities participating in this model project, except to the extent that they are inconsistent with this article.

#### **§ 1569.697. (Operative until January 1, 1998) Repeal of article**

This article shall become inoperative on January 1, 1998, or on the date regulations adopted by the department pursuant to subdivision (c) of Section 1569.698 become effective, whichever is earlier, and as of January 1, 1998, or the January 1 next following the date the regulations become effective, is repealed, unless a later enacted statute, that becomes operative on or before the applicable January 1, deletes or extends the dates on which it becomes inoperative and is repealed.



## **Article 6.6. Secured Perimeters**

### **§ 1569.698. Secured Perimeters; State Fire Marshal Standards**

(a) The State Fire Marshal has proposed that the State Building Standards Commission adopt building standards to provide for locked and secured perimeters in residential care facilities for the elderly that care for persons with dementia:

(1) It is acknowledged that these building standards will not become effective until October 1, 1996.

(2) It is the policy of the State Building Standards Commission that building standards be adopted exclusively into the California Building Standards Code and not into state statute.

(3) However, in recognition of the immediate need of residential care facilities for the elderly caring for persons with dementia to provide a secured environment, it is the intent of the Legislature that the building standards for locked and secured perimeters proposed by the State Fire Marshal for adoption in the 1994 California Building Standards Code, as set forth in Section 1569.699, be effective upon the date this article becomes operative.

(b) (1) Upon the filing of emergency regulations with the Secretary of State pursuant to subdivision (c), a residential care facility for the elderly that cares for people with dementia may utilize secured perimeter fences or locked exit doors, if it meets the requirements for additional safeguards required by those regulations.

(2) For the purposes of this article, dementia includes Alzheimer's disease and related disorders diagnosed by a physician, that increases the tendency to wander and that decreases hazard awareness and the ability to communicate.

(3) It is the intent of the Legislature in enacting this article that residential care facilities for the elderly have options for the security of persons with dementia who are residents of those facilities that are in addition to existing security exceptions made for individual residents. It is the further intent of the Legislature that these additional options shall include the use of waivers of certain building standards relating to fire safety to be issued by the state department with the approval, of the State Fire Marshal, to permit the care of a target group of persons with dementia by means of secured perimeter fences, or the use of locked exterior doors. Each waiver request shall include a facility plan of operation that addresses elements of care to be identified by the department in regulations and demonstrates the facility's ability to meet the safety needs of persons with dementia.

(4) The department shall adopt regulations that ensure that staff for secured perimeter facilities receive appropriate and adequate training in the care of residents with Alzheimer's disease or other related dementia.

(5) Nothing in this section is intended to prohibit residential care facilities for the elderly from accepting or retaining persons with dementia whose needs can be fully met using care options permitted by existing law and regulations.

(6) It is not the intent of the Legislature to authorize an increase in the level of care provided in a residential care facility for the elderly or to establish a supplemental rate structure based on the services provided in the facility.

(7) All admissions to residential care facilities for the elderly shall continue to be voluntary on the part of the resident or with the lawful consent of the resident's legal conservator.

(c) The department shall adopt regulations to implement subdivision (b) in accordance with those provisions of the Administrative Procedure Act contained in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The initial adoption of any emergency regulations following the effective date of the act amending this section during the 1995-96 Regular Legislative Session shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Emergency regulations adopted pursuant to this subdivision shall remain in effect for no more than 180 days.

(d) In addition to the security options authorized by subdivision (b), residential care facilities for the elderly that accept or retain as residents persons with dementia, and that choose to utilize the security options of egress-control devices of the time-delay type in addition to secured perimeter fences or locked exit doors, shall comply with Section 1569.699, or regulations adopted by the State Building Standards Commission, whichever is operative.

(e) Except as specified in Article 6.5 (commencing with Section 1569.691), no residential care facility for the elderly shall utilize special egress-control devices of the time-delay type, secured perimeter fences, or locked exit doors unless the facility meets the requirements of Section 1569.699 or the Building Standards Commission adopts building standards to implement this section.

(f) Any person who is not a conservatee and is entering a locked or secured perimeter facility pursuant to this section, shall sign a statement of voluntary entry. The facility shall retain the original statement and shall send a copy of the statement to the department.

#### **§ 1569.699. Special Egress-Control Devices**

(a) When approved by the person responsible for enforcement as described in Section 13146, exit doors in facilities classified as Group R, Division 2 facilities under the California Building Standards Code, licensed as residential care facilities for the elderly, and housing clients with Alzheimer's disease or dementia, may be equipped with approved listed special egress-control devices of the time-delay type, provided the building is protected throughout by an approved automatic sprinkler system and an approved automatic smoke-detection system. The devices shall conform to all of the following requirements:

- (1) Automatic deactivation of the egress-control device upon activation of either the sprinkler system or the detection system.
- (2) Automatic deactivation of the egress-control device upon loss of electrical power to any one of the following: The egress-control device; the smoke-detection system; exit illumination as required by Section 1012 of the California Building Code.
- (3) Be capable of being deactivated by a signal from a switch located in an approved location.
- (4) Initiate an irreversible process that will deactivate the egress-control device whenever a manual force of not more than 15 pounds (66.72 N) is applied for two seconds to the panic bar or other door-latching hardware. The egress-control device shall deactivate within an approved time period not to exceed a total of 15 seconds, except that the person responsible for enforcement as described in Section 13146 may approve a delay not to exceed 30 seconds in residential care facilities for the elderly serving patients with Alzheimer's disease. The time delay established for each egress-control device shall not be field adjustable.
- (5) Actuation of the panic bar or other door-latching hardware shall activate an audible signal at the door.
- (6) The unlatching shall not require more than one operation.

(7) A sign shall be provided on the door located above and within 12 inches (305mm) of the panic bar or other door-latching hardware reading:

**KEEP PUSHING. THIS DOOR WILL OPEN IN \_\_\_\_ SECONDS. ALARM WILL SOUND.**

Sign letter shall be at least one inch (25mm) in height and shall have a stroke of not less than 1/8 inch (3.3mm).

(8) Regardless of the means of deactivation, relocking of the egress-control device shall be by manual means only at the door.

(b) Grounds of residential care facilities for the elderly serving persons with Alzheimer's disease or dementia may be fenced, and gates therein equipped with locks, provided safe dispersal areas are located not less than 50 feet (15240mm) from the buildings. Dispersal areas shall be sized to provide an area of not less than three square feet (0.28<sup>2</sup>) per occupant. Gates shall not be installed across corridors or passageways leading to the dispersal areas unless they comply with the exit requirements of Section 1021 of the California Building Standards Code.

(c) Exit doors may be locked in residential care facilities for the elderly that meet the requirements for Group I, Division 3 occupancies under the California Building Standards Code and that care for people with dementia.

(d) This section shall become inoperative on the date the State Building Standards Commission adopts regulations regarding secured perimeters in residential care facilities for the elderly, and, as of the January 1 next following that date, is repealed, unless a later enacted statute, that becomes operative on or before that January 1, deletes or extends the dates on which it becomes inoperative and is repealed.

#### **§1569.6991. Security Window Bars**

On and after January 1, 1999, no security window bars may be installed or maintained on any residential care facility for the elderly unless the security window bars meet current state and local requirements, as applicable, for security window bars and safety release devices.

### **ARTICLE 7. Levels of Care**

#### **§ 1569.70. Legislative intent**

It is the intent of the Legislature to develop and implement a plan to establish three levels of care under the residential care facility for the elderly license, subject to future Budget Act appropriations and statutory authorization to implement levels of care.

(a) The guidelines for the development of these levels of care are:

(1) Level I-Base care and supervision. Residents at this level are able to maintain a higher degree of independence and need only minimum care and supervision, as defined, and minimal personal care assistance.

(2) Level II-Nonmedical personal care. Residents at this level have functional limitations and psychosocial needs requiring not only care and supervision but frequent assistance with personal activities of daily living and active intervention to help them maintain their potential for independent living.

(3) Level III-Health related assistance. Residents at this level require the services of lower levels and rely on the facility for extensive assistance with personal activities of

daily living. This level may include residents who also require the occasional services of an appropriate skilled professional due to chronic health problems and returning residents recovering from illness, injury, or treatment which required placement in facilities providing higher levels of care. These levels are to be based on the services required by residents at each level due to their functional limitations.

(b) The levels of care plan shall include:

(1) Guidelines for meeting requirements at each level of care by utilizing appropriate community and professional services. Options shall be provided to allow facilities to meet resident needs by accessing community services or hiring appropriate staff.

(2) Assessment procedures for facility evaluation of residents' level of care needs.

(3) Process for ensuring the individual facility's ability to serve clients at each level of care they intend to provide.

(4) Recommendations for a supplemental rate structure based on the services required at Levels II and III to be provided for residents who need those levels of care and are recipients of SSI/SSP. These rates shall be in addition to the basic SSI/SSP rate for providing care supervision and shall reflect actual costs of operation for residential care facilities for the elderly.

(5) Procedures for assessment and certification of SSI/SSP recipients, by county social services departments to allow for administration of the supplemental rate structure.

(6) Procedures for evaluating and monitoring the appropriateness of the levels of care determined for SSI/SSP recipients.

(c) Implementation of the levels of care system shall consider the applicability of the 1985 level of care report developed by the Health and Welfare Agency, so as to ensure continuity in the residential care facility for the elderly program as outlined under this chapter.

#### **§ 1569.71. Regulations concerning nonambulatory persons**

In consultation with the State Fire Marshal the department shall develop and expedite implementation of regulations related to nonambulatory persons that ensure resident safety but also provide flexibility to allow residents to remain in the least restrictive environment.

Following the implementation of levels of care, regulations related to nonambulatory persons shall also provide the flexibility necessary for those levels in residential care facilities for the elderly.

#### **§ 1569.72. Residents requiring skilled nursing or intermediate care; bedridden residents**

(a) Except as otherwise provided in subdivision (d), no resident shall be admitted or retained in a residential care facility for the elderly if any of the following apply:

(1) The resident requires 24-hour, skilled nursing or intermediate care.

(2) The resident is bedridden, other than for a temporary illness or for recovery from surgery.

(b) (1) For the purposes of this section, "bedridden" means either requiring assistance in turning and repositioning in bed, or being unable to independently transfer to and from bed, except in facilities with appropriate and sufficient care staff, mechanical devices if necessary, and safety precautions, as determined by the director in regulations.

(2) The determination of the bedridden status of persons with developmental disabilities shall be made by the Director of Social Services or his or her designated representative, in consultation with the Director of Developmental Services or his or her designated

representative, after consulting the resident's individual safety plan. The determination of the bedridden status of all other persons with disabilities who are not developmentally disabled shall be made by the Director of Social Services, or his or her designated representative.

(c) Notwithstanding paragraph (2) of subdivision (a), bedridden persons may be admitted to, and remain in, residential care facilities for the elderly that secure and maintain an appropriate fire clearance. A fire clearance shall be issued to a facility in which a bedridden person resides if either of the following conditions are met:

(1) The fire safety requirements are met.

(2) Alternative methods of protection are approved.

(d) (1) For purposes of this section, "temporary illness" means any illness which persists for 14 days or less.

(e) A bedridden resident may be retained in a residential care facility for the elderly in excess of 14 days if all of the following requirements are satisfied:

(1) The facility notifies the department in writing regarding the temporary illness or recovery from surgery.

(2) The facility submits to the department, with the notification, a physician and surgeon's written statement to the effect that the resident's illness or recovery is of a temporary nature. The statement shall contain an estimated date upon which the illness or recovery will end or upon which the resident will no longer be confined to a bed.

(3) The department determines that the health and safety of the resident is adequately protected in that facility and that transfer to a higher level of care is not necessary.

(4) This section does not expand the scope of care and supervision of a residential care facility for the elderly.

(f) Notwithstanding the length of stay of a bedridden resident, every facility admitting or retaining a bedridden resident, as defined in this section, shall, within 48 hours of the resident's admission or retention in the facility, notify the local fire authority with jurisdiction in the bedridden resident's location of the estimated length of time the resident will retain his or her bedridden status in the facility.

(g) Nothing in this section shall be used for purposes of Section 1569.70 to determine the appropriateness of residents being admitted or retained in a residential care facility for the elderly on the basis of health related conditions and the need for these services until the three levels of care set forth in Section 1569.70 are fully implemented. This section shall not prohibit the Community Care Licensing Division of the State Department of Social Services from continuing to implement the regulations of Article 8 (commencing with Section 87700) of Chapter 8 of Division 6 of Title 22 of the California Code of Regulations, as promulgated and approved on February 13, 1990.

(h) (1) The department and the Office of the State Fire Marshal, in consultation with the State Department of Developmental Services, shall each promulgate regulations that meet all of the following conditions:

(A) Are consistent with subdivisions (a) to (f), inclusive.

(B) Are applicable to facilities regulated under this chapter, consistent with the regulatory requirements of the California Building Standards Code for fire and life safety for the respective occupancy classifications into which the State Department of Social Services' community care licensing classifications fall.

(C) Permit residents to remain in home-like settings.

(2) At a minimum, these regulations shall do both of the following with regard to a residential care facility that provides care for six or fewer residents, at least one of whom is bedridden

(A) Clarify the fire and life safety requirements for a fire clearance for the facility.

(B) (i) Identify procedures for requesting the approval of alternative means of providing equivalent levels of fire and life safety protection.

(ii) Either the facility, the resident or resident's representative, or local fire official may request from the Office of the State Fire Marshal a written opinion concerning the interpretation of the regulations promulgated by the State Fire Marshal pursuant to this section for a particular factual dispute. The State Fire Marshall shall issue the written opinion within 45 days following the request.

(i) For facilities that care for six or fewer clients, a local fire official may not impose fire safety requirements stricter than the fire safety regulations promulgated for the particular type of facility by the Office of the State Fire Marshal or the local fire safety requirements imposed on any other single family dwelling, whichever is more strict.

(j) This section and any regulations promulgated thereunder shall be interpreted in a manner that provides flexibility to allow bedridden persons to avoid institutionalization and be admitted to, and safely remain in, community-based residential care facilities.

### **§ 1569.725. Home Health Agency Care in Residential Care Facility for the Elderly**

(a) A residential care facility for the elderly may permit incidental medical services to be provided through a home health agency, licensed pursuant to Chapter 8 (commencing with Section 1725), when all of the following conditions are met:

(1) The facility, in the judgment of the department, has the ability to provide the supporting care and supervision appropriate to meet the needs of the resident receiving care from a home health agency.

(2) The home health agency has been advised of the regulations pertaining to residential care facilities for the elderly and the requirements related to incidental medical services being provided in the facility.

(3) There is evidence of an agreed-upon protocol between the home health agency and the residential care facility for the elderly. The protocol shall address areas of responsibility of the home health agency and the facility and the need for communication and the sharing of resident information related to the home health care plan. Resident information may be shared between the home health agency and the residential care facility for the elderly relative to the resident's medical condition and the care and treatment provided to the resident by the home health agency including, but not limited to, medical information, as defined by the Confidentiality of Medical Information Act, Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.

(4) There is ongoing communication between the home health agency and the residential care facility for the elderly about the services provided to the resident by the home health agency and the frequency and duration of care to be provided.

(b) Nothing in this section is intended to expand the scope of care and supervision for a residential care facility for the elderly, as prescribed by this chapter.

(c) Nothing in this section shall require any care or supervision to be provided by the residential care facility for the elderly beyond that which is permitted in this chapter.

(d) The department shall not be responsible for the evaluation of medical services provided to the resident of the residential care facility for the elderly by the home health agency.

(e) Any regulations, policies, or procedures related to sharing resident information and development of protocols, established by the department pursuant to this section, shall be developed in consultation with the State Department of Health Services and persons representing home health agencies and residential care facilities for the elderly.

### **§ 1569.73. Terminally ill residents; hospice care**

(a) Notwithstanding Section 1569.72 or any other provision of law, a residential care facility for the elderly may obtain a waiver from the department for the purpose of allowing a resident who has been diagnosed as terminally ill by his or her physician or surgeon to remain in the facility when all the following conditions are met:

(1) The facility agrees to retain the terminally ill resident and to seek a waiver on behalf of the individual, provided the individual has requested the waiver and is capable of deciding to obtain hospice services.

(2) The terminally ill resident has obtained the services of a hospice certified in accordance with federal medicare conditions of participation and licensed pursuant to Chapter 8 (commencing with Section 1725) or Chapter 8.5 (commencing with Section 1745).

(3) The facility, in the judgment of the department, has the ability to provide care and supervision appropriate to meet the needs of the terminally ill resident, and is in substantial compliance with regulations governing the operation of residential care facilities for the elderly.

(4) The hospice has agreed to design and provide for care, services, and necessary medical intervention related to the terminal illness as necessary to supplement the care and supervision provided by the facility.

(5) An agreement has been executed between the facility and the hospice regarding the care plan for the resident. The care plan shall designate the primary caregiver, identify other caregivers, and outline the tasks the facility is responsible for performing and the approximate frequency with which they shall be performed. The care plan shall specifically limit the facility's role for care and supervision to those tasks allowed under this chapter.

(6) The facility has obtained the agreement of those residents who share the same room with the terminally ill resident to allow the hospice caregivers into their residence.

(b) At any time that the licensed hospice, the facility, or the terminally ill resident determines that the resident's condition has changed so that continued residence in the facility will pose a threat to the health and safety to the terminally ill resident or any other resident, the facility may initiate procedures for a transfer.

(c) Nothing in this section is intended to expand the scope of care and supervision for a residential care facility for the elderly as defined in this act, nor shall a facility be required to alter or extend its license in order to retain a terminally ill resident as authorized by this section.

(d) Nothing in this section shall require any care or supervision to be provided by the residential care facility for the elderly beyond that which is permitted in this chapter.

(e) Nothing in this section is intended to expand the scope of life care contracts or the contractual obligation of continuing care retirement communities as defined in Section 1771.

(f) The department shall not be responsible for the evaluation of medical services provided to the resident by the hospice and shall have no liability for the independent acts of the hospice.

(g) Nothing in this section shall be construed to relieve a licensed residential care facility for the elderly of its responsibility to notify the appropriate fire authority of the presence of a bedridden resident in the facility as required under subdivision (e) of Section 1569.72, and to obtain and maintain a fire clearance as required under Section 1569.149.

## **§ 1569.74. Do Not Resuscitate Orders**

(a) Licensed residential care facilities for the elderly that employ health care providers may establish policies to honor a request to forego resuscitative measures as defined in subdivision (b) of Section 4753 of the Probate Code.\*

(b) Any policy established pursuant to subdivision (a) shall meet all of the following conditions:

(1) The policy shall be in writing and specify procedures to be followed in implementing the policy.

(2) The policy and procedures shall, at all times, be available in the facility for review by the department.

(3) The licensee shall ensure that all staff are aware of the policy as well as the procedures to be followed in implementing the policy.

(4) A copy of the policy shall be given to each resident who makes a request to forego resuscitative measures, and the resident's primary physician.

(5) A copy of the resident's request to forego resuscitative measures shall be maintained in the facility and shall be immediately available for review by facility staff, the licensed health care provider, and the department.

(6) Facility staff are prohibited, on behalf of any resident, from signing any directive document as a witness or from being the legally recognized surrogate decisionmaker.

(7) The facility shall provide the resident's physician with a copy of the resident's request to forego resuscitative measures form.

(c) Any action by a facility that has established policies pursuant to subdivision (a), to honor a resident's request to forego resuscitative measures as provided for in subdivision (a) may only be taken by a licensed health care provider who is employed by the facility and on the premises at the time of the life threatening emergency.

(d) Licensed residential care facilities for the elderly that have not established policies pursuant to subdivision (a), may keep an executed request to forego resuscitative measures form in the resident's file and present it to an emergency medical technician or paramedic when authorized to do so in writing by the resident or his or her legally recognized surrogate decisionmaker. The request may be honored by an emergency medical technician or by any health care provider as defined in Section 4753 of the Probate Code, who, in the course of professional or volunteer duties, responds to emergencies.

[Health and Safety Code Section 1569.74 refers to Probate Code Section 4753 for the definition of a request to forego resuscitative measures. That definition is now found in Probate Code Section 4780.]

## **Article 7.5. Resident Participation in Decisionmaking**

### **§ 1569.80. Decision Making Participation**

(a) A resident of a residential care facility for the elderly, or the resident's representative, or both, shall have the right to participate in decisionmaking regarding the care and services to be provided to the resident. Accordingly, prior to, or within two weeks after, the resident's admission, the facility shall coordinate a meeting with the resident and the resident's representative, if any, an appropriate member or members of the facility's staff, if the resident is receiving home health services in the facility, a representative of the home health agency involved, and any other appropriate parties. The facility shall ensure that participants in the meeting prepare a written record of the care the resident will receive in the facility, and the



resident's preferences regarding the services provided at the facility.

(b) Once prepared, the written record described in subdivision (a) shall be used by the facility, and, if applicable pursuant to Section 1569.725, the home health agency, to determine the care and services provided to the resident. If the resident has a regular physician, the written record shall be sent by the facility to that physician.

(c) The written record described in subdivision (a) shall be reviewed, and, if necessary, revised, at least once every 12 months, or upon a significant change in the resident's condition, as defined by regulations, whichever occurs first. The review shall take place at a meeting coordinated by the facility, and attended by the resident, the resident's representative, if any, an appropriate member or members of the facility's staff, and, if the resident is receiving home health services in the facility, a representative from the home health agency involved.

(d) This section shall not preclude a residential care facility for the elderly or home health agency from satisfying other state or federal obligations at a meeting required by subdivision (a) or (c).

(e) If the residential care facility for the elderly is a continuing care retirement community, as defined in paragraph (10) of subdivision (c) of Section 1771, this section shall apply only to residents who require care and supervision, as defined in subdivision (b) of Section 1569.2.

## **ARTICLE 8. Local Regulation**

### **§ 1569.82. Legislative declaration; Application of article**

The Legislature hereby declares that it is the policy of this state that each county and city shall permit and encourage the development of sufficient numbers of residential care facilities for the elderly as are commensurate with local need.

This article shall apply equally to any chartered city, general law city, county, city and county, district, and any other local public entity.

For the purposes of this article, "six or fewer persons" does not include the licensee or members of the licensee's family or persons employed as facility staff.

### **§ 1569.83. Invocation of article**

Any person licensed under this chapter who operates, or proposes to operate a residential care facility for the elderly, the department or other public agency authorized to license the facility, or any public or private agency which uses or may use the services of the facility to place its clients, may invoke this article.

This section shall not be construed to prohibit any interested party from bringing suit to invoke this article.

### **§ 1569.84. Liability for taxes and fees of facilities serving six or fewer persons**

A residential care facility for the elderly, which serves six or fewer persons shall not be subject to any business taxes, local registration fees, use permit fees, or other fees to which other family dwellings of the same type in the same zone are not likewise subject. Nothing in this section shall be construed to forbid the imposition of local property taxes, fees for water service and garbage collection, fees for inspections not prohibited by Section 1569.85, local bond assessments, and other fees, charges, and assessments to which other family dwellings of the same type in the same zone are likewise subject. Neither the State Fire Marshal nor any

local public entity shall charge any fee for enforcing fire inspection regulations pursuant to state law or regulation or local ordinance, with respect to residential care facilities for the elderly which service six or fewer persons.

For the purposes of this section, "family dwelling," includes, but is not limited to, single-family dwellings, units in multifamily dwellings, including units in duplexes and units in apartment dwellings, mobilehomes, including mobilehomes located in mobilehome parks, units in cooperatives, units in condominiums, units in townhouses, and units in planned unit developments.

#### **§ 1569.85. Particular facility as residential use; Applicability of local ordinances**

Whether or not unrelated persons are living together, a residential care facility for the elderly which serves six or fewer persons shall be considered a residential use of property for the purposes of this article. In addition, the residents and operators of the facility shall be considered a family for the purposes of any law or zoning ordinance which relates to the residential use of property pursuant to this article.

For the purpose of all local ordinances, a residential care facility for the elderly which serves six or fewer persons shall not be included within the definition of a boarding house, rooming house, institution or home for the care of the aged, guest home, rest home, sanitarium, mental hygiene home, or other similar term which implies that the residential care facility for the elderly is a business run for profit or differs in any other way from a family dwelling.

This section shall not be construed to forbid any city, county, or other local public entity from placing restrictions on building heights, setback, lot dimensions, or placement of signs of a residential care facility for the elderly which serves six or fewer persons as long as the restrictions are identical to those applied to other family dwellings of the same type in the same zone.

This section shall not be construed to forbid the application to a residential care facility for the elderly of any local ordinance which deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity if the ordinance does not distinguish residential care facilities for the elderly which serve six or fewer persons from other family dwellings of the same type in the same zone; and if the ordinance does not distinguish residents of the residential care facilities for the elderly from persons who reside in other family dwellings of the same type in the same zone.

No conditional use permit, zoning variance, or other zoning clearance shall be required of a residential care facility for the elderly which serves six or fewer persons which is not required of a family dwelling of the same type in the same zone.

Use of a family dwelling for purposes of a residential care facility for the elderly serving six or fewer persons shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 or local building codes. However, nothing in this section is intended to supersede Section 13143 or 13143.6, to the extent these sections are applicable to residential care facilities for the elderly providing care for six or fewer residents.

For the purposes of this section, "family dwelling," includes, but is not limited to, single-family dwellings, units in multifamily dwellings, including units in duplexes and units in apartment dwellings, mobilehomes, including mobilehomes located in mobilehome parks, units in cooperatives, units in condominiums, units in townhouses, and units in planned unit developments.

## **§ 1569.86. Denial of Fire Inspection Clearance or Other Permit; Exempt Facilities**

No fire inspection clearance or other permit, license, clearance, or similar authorization shall be denied to a residential care facility for the elderly because of a failure to comply with local ordinances from which the facilities are exempt under Section 1569.85, provided that the applicant otherwise qualifies for the fire clearance, license, permit, or similar authorization.

## **§ 1569.87. Transfers of real property after specified date; Effect of disclaimer**

For the purposes of any contract, deed, or covenant for the transfer of real property executed on or after January 1, 1979, a residential facility for the elderly which serves six or fewer persons shall be considered a residential use of property and a use of property by a single family, notwithstanding any disclaimers to the contrary.

## **Business and Professions Code**

### **§ 680 Wearing of Name Tag by Health Care Practitioner**

(a) Except as otherwise provided in this section, a health care practitioner shall disclose, while working, his or her name and practitioner's license status, as granted by this state, on a name tag in at least 18-point type. A health care practitioner in a practice or an office, whose license is prominently displayed, may opt to not wear a name tag. If a health care practitioner or a licensed clinical social worker is working in a psychiatric setting or in a setting that is not licensed by the state, the employing entity or agency shall have the discretion to make an exception from the name tag requirement for individual safety or therapeutic concerns. In the interest of public safety and consumer awareness, it shall be unlawful for any person to use the title "nurse" in reference to himself or herself and in any capacity, except for an individual who is a registered nurse, or a licensed vocational nurse, or as otherwise provided in Section 2800. Nothing in this section shall prohibit a certified nurse assistant from using his or her title.

(b) Facilities licensed by the State Department of Social Services, the State Department of Mental Health, or the State Department of Health Services, shall develop and implement policies to ensure that health care practitioners providing care in those facilities are in compliance with subdivision (a). The State Department of Social Services, the State Department of Mental Health, and the State Department of Health Services shall verify through periodic inspections that the policies required pursuant to subdivision (a) have been developed and implemented by the respective licensed facilities.

(c) For purposes of this article, "health care practitioner" means any person who engages in acts that are the subject of licensure or regulation under this division or under any initiative act referred to in this division.

## **Probate Code**

### **§ 4780. Do Not Resuscitate Definitions**

(a) As used in this part:

(1) "Request to forgo resuscitative measures" means a written document, signed by (A) an individual, or a legally recognized surrogate health care decisionmaker, and (B) a physician, that directs a health care provider to forgo resuscitative measures for the individual.

(2) "Request to forgo resuscitative measures" includes a prehospital "do not resuscitate" form as developed by the Emergency Medical Services Authority or other substantially similar form.

(b) A request to forgo resuscitative measures may also be evidenced by a medallion engraved with the words "do not resuscitate" or the letters "DNR," a patient identification number, and a 24-hour toll-free telephone number, issued by a person pursuant to an agreement with the Emergency Medical Services Authority.

[Health and Safety Code Section 1569.74 refers to Probate Code Section 4753 for the definition of a request to forgo resuscitative measures. That definition is now found in Probate Code Section 4780.]

## **Welfare and Institutions Code**

### **§ 15655 Dependent Adult Abuse Training**

(a) (1) Each long-term health care facility, as defined in Section 1418 of the Health and Safety Code, community care facility, as defined in Section 1502 of the Health and Safety Code, or residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, that provides care to adults shall provide training in recognizing and reporting elder and dependent adult abuse, as prescribed by the Department of Justice. The Department of Justice shall, in cooperation with the State Department of Health Services and the State Department of Social Services, develop a minimal core training program for use by these facilities. As part of that training, long-term care facilities, including nursing homes and out-of-home care facilities, shall provide to all staff being trained a written copy of the reporting requirements and a written notification of the staff's confidentiality rights as specified in Section 15633.

(2) Each long-term health care facility as defined in Section 1418 of the Health and Safety Code and each community care facility as defined in Section 1502 of the Health and Safety Code shall comply with paragraph (1) by January 1, 2001, or, if the facility began operation after July 31, 2000, within six months of the date of the beginning of the operation of the facility. Employees hired after June 1, 2001, shall be trained within 60 days of their first day of employment.

(3) Each residential care facility as defined in Section 1569.2 of the Health and Safety Code shall comply with paragraph (1) by July 1, 2002, or, if the facility began operation after July 1, 2002, within six months of the date of the beginning of the operation of the facility. Employees hired on or after July 1, 2002, shall be trained within 60 days of their first day of employment.

(b) Each long-term health care facility, as defined in Section 1418 of the Health and Safety Code, shall be subject to review by the State Department of Health Services Licensing and Certification Unit for compliance with the duties imposed in subdivision (a).

(c) Each community care facility, as defined in Section 1502 of the Health and Safety Code, and residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, shall be subject to review by the State Department of Social Services Community Care Licensing Unit for compliance with the duties imposed in subdivision (a).